CASE AND COMMENT

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Child Labor Legislation

BY MRS. FLORENCE KELLEY

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AMONG the characteristic features of child labor legislation in the United States, the chief are diversity, lack of unity, and insufficiency. This applies to the legal age for beginning to work, to the legal working hours, to work at night, to the educational requirement or the lack thereof, to the standard of health and stature, and finally, and immeasurably important, to enforcement by inspectors, school officials, and courts.

So great is this diversity that the standard of legislation in the Southern states is probably farther removed to-day from that of the Northern states, than it was in 1900, when the present crusade for efficient protection of working children was just beginning.

Several Northern states have made great strides. Among the Southern states, Kentucky and Louisiana are the only ones to which those terms could be applied without irony.

In the Northern states there is an irregular, but continuing, movement in the general direction of nonemployment of children before the sixteenth birthday. This is attempted directly only in Montana, which provides that such children shall not be employed in any mine, mill, smelter, factory, steam, electric, hydraulic, or compressed air railroad, elevator, or place where any machinery is operated, any telegraph or telephone office, or as messenger, or in any occupation not enumerated above, known as dangerous or unhealthful. Furthermore, illiterate children cannot be employed in any occupation, such as agriculture, or domestic service, before the sixteenth birthday.

Indirectly a strong influence is exerted in the same direction by the New York, Illinois, Ohio, and Oregon provisions that a child under sixteen years of age cannot work longer than eight hours in a day. This spoils the appetite of manufacturers for children, more in New York factories, perhaps, where children must be sent home at 5 P. M., than in Ohio and Oregon, where they may work until 6 P. M.; and still more than in Illinois, where their legal day can be stretched until 7 P. M., and the 8-hours limit is correspondingly more difficult to enforce.

Ohio restricts to 8 hours the work of girls below the age of eighteen years in all gainful occupations, and forbids their working in the night between 6 P. M. and 7 A. M. This statute has been sustained by the courts of Ohio, when questioned, on the ground of constitutionality. This Ohio law excels as to the greater age of the young workers protected by it, while the New York law excels in fixing 5 P. M. as the closing hour for all below sixteen years of age who work in factories, and being correspondingly easier of enforcement.

Another unique discourager of young employees is the New York provision enacted in 1910, forbidding in cities of the first class (*i. e.*, New York, Buffalo, and Rochester) the employment of boys under twenty-one years of age between the hours of 10 at night and 5 in the morning. Even before the passage of this law, it had been nominally illegal to employ children under sixteen years of age, after 7 o'clock at night, in the telegraph and messenger service. The enforce-

ment of this older provision is valuably re-enforced by the new extension of similar protection to older boys.

It is much more difficult now to employ a boy under sixteen years of age at midnight, under the pretext that he appeared older and represented himself as being older, since the prohibition applying to the little chaps applies also all the way up to the age of twenty-one. Not one boy in ten thousand who is under sixteen could make any pretense whatever to being over twenty-one. While the number of boys in New York affected by this new legislation is not very large, the new law is nevertheless one more influence in the general tendency to shut out entirely the younger workers.

The similar bill introduced in Ohio at the legislative session of 1910 resulted in the passage of a law providing that no boy under the age of eighteen years may be employed by a telegraph or messenger company between the hours of 9 in the evening and 6 in the morning.

Maryland also followed haltingly in the same direction, by prohibiting night work below the age of sixteen years, and the sending of any minor to receive or deliver a message at any disorderly house. Before the enactment of this new Maryland law, a boy of twelve might be employed all night as a messenger, and sent to any place, however disreputable the place or the boy's errand might be.

In Georgia, at the recent summer session of the legislature, a bill modeled on the New York law, but fixing the age for night work of telgraph and messenger boys at sixteen years instead of twenty-one, passed the senate ten seconds before adjournment, and will take effect on New Year's Day.

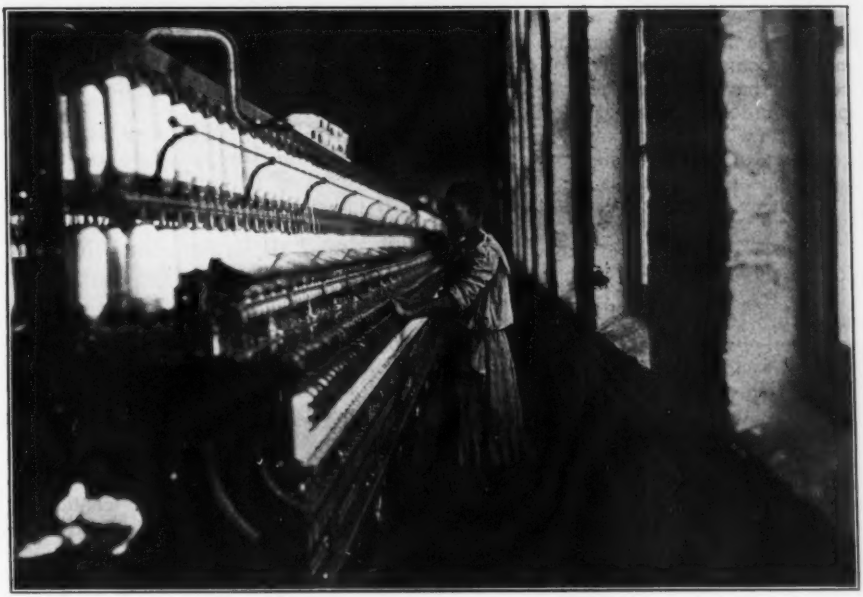
The small number of states in which there is any effective prohibition of night work in the telegraph and messenger service appears to be due to the prevailing ignorance of conditions attending such work. The report of the national child labor committee on this subject was of such a character that it could not be printed or mailed. The New York state legislative committees, to which this report was submitted, recommended, without a dissenting voice, the immediate passage of the bill above described, and in the assembly there was neither a speech nor a vote against it. In the senate, a question asked for information by a senator led to an impassioned speech in favor of the bill and the boys by a senator from New York city, and the bill passed both Houses without further incident. The law has been in force since October 1st, 1910.

A much longer crusade against night work of boys has been carried on in relation to glass manufacture. In Illinois 7 P. M. was established as the closing hour in 1905, then followed Ohio with 6 P. M. in all gainful occupations, and, beginning with New Years' Day, New Jersey will form a trio with these enlightened glass-manufacturing states. Yet it is still legal for boys fourteen years old to work throughout the night in glass works in Maryland, West Virginia, Pennsylvania, and Indiana.

Unfortunately, no state has yet made specific provision with regard to girls in the telephone service. In Cleveland, Cincinnati, and Columbus, Ohio, however, the writer has observed that in using the telephone late at night it is always a man's voice which responds to the call. In other states the usage appears to be that new employees are set to work at night and on holidays, when the demand upon the service is least. This involves, obviously, the employment of the younger operatives, the new recruits, at night; and there has been hitherto no such crusade against this employment of little girls in the telephone service, made by the national child labor committee or any other of the organized advocates of the rights of children, as has been so auspiciously begun in the case of the telegraph boys.

It is characteristic of all these restrictions that, while indirectly, they tend to reduce the total number of young employees, directly and immediately they benefit the contingent who remain at work. A short working day and safety from work at night are affirmatively good for all who get them.

The commission on uniform state laws originally appointed by the American Bar Association, and now reinforced by the appointment by the governors of the states of several additional members, has



CHILD EMPLOYED IN COTTON MILL.

Height 51 inches. Has worked one year part of the time at night. Earns 48 cents a day. When asked her age she said "I don't remember" then added "I'm not old enough to work."

now under consideration, for final action in 1911, a draft for a uniform child-labor law. This draft has been prepared by a special committee of which Mr. Hollis R. Bailey, of Cambridge, Massachusetts, is chairman. When adopted by the commission, this draft will be recommended to all the states for adoption.

Among the fundamentals of this law are the uniform age for beginning to work, fixed at fourteen years, provided the children have finished the eighth grade of the public-school curriculum, and are of the normal stature and in good health; the uniform 8 hours day, closing at 5 P. M.; and uniform documentary evidence of age, with an effective preference given to the birth certificate as compared with all other documents.

A long campaign will be required to achieve the establishment of this standard in states in which, as in South Carolina, there is still no lowest age limit; and as in Georgia, where orphan children may legally work in cotton mills eleven hours in twenty-four and sixty-six hours in a week.

Three kinds of work done by children are still in need of effective restriction in every state in which they occur,—the street trades, tenement home work, and berry picking. It can be said virtually, without modification, that nothing effective has yet been done in any state with regard to these industries, though the number of children employed in all three constantly grows.

The places in which these industries are carried on make the task of enforcement of statutes unusually difficult. Berry bogs and fields are commonly remote and inaccessible to school authorities and labor inspectors, while rural magistrates and juries North and South alike view with leniency the employment of children.

Street children are as hard to follow up today as they were in the days of Victor Hugo's gamins of Paris.

The cruel decision of the court of appeals in Re Jacobs (98 N. Y. 98) has effectively blocked all effort to restrict or prohibit the work of children (even of those three, four, and five years of age) in the bosom of the family. Until that decision can be reversed, and indus-

try can be banished from the kitchens and bedrooms of the poorest of the poor, we shall have laggards in our schools, special outdoor classes for anemic school children (who are working children as well), and a never ending hopeless crusade against tuberculosis in every city in which tenement-house manufacture is tolerated.

In no respect is child labor legislation in the United States more diverse than in regard to enforcement. Judges, juries, prosecuting and county attorneys, probation officers, truant officers, mercantile and factory inspectors, all figure in the varying processes of enforcement in the different states.

Manufacturing states without factory inspectors, and mining states without mine inspectors, afford no adequate protection to working children. If here and there a probation officer attached to a juvenile court makes an occasional arrest of an employer, it is nowhere the prime duty of these officers to make systematic search for children working in factories, stores, workshops, etc., least of all to ascertain the conditions under which they are working. Nor can truant officers be asked to enforce closing hours or stop night work.

The value of child labor laws depends upon the number and quality of the inspectors appointed to enforce them, the tenure of office of the inspectors, and the amount of money appropriated for their use. Where factory inspectors are politicians, and truant officers are aged or decrepit or indifferent, the children suffer accordingly.

Nowhere is the unequality of our labor legislation more conspicuous than in a collection of reports of enforcing officials. Some states, like Delaware, make no provision for publication; other states for biennial, and in them one half of the *data* is inevitably belated when made public.

The essentials of a good report are promptness, fullness and clearness. The reports of the New York department of labor set, in all these respects, a standard which is not even approached by the reports of any similar department in the country. They comprise a monthly list of all tenement houses licensed for manufacture; a quarterly bulletin containing statistics, judicial decisions, the substance of current legislation, and much general information concerning labor, child labor included; and finally, an annual report of inspections and prosecutions for violation of the labor law, setting forth with admirable candor the successes, the limitations, and the failures of the department.

No child labor legislation in any state can be regarded as effectively enforced, unless the officials responsible for the work give equally prompt and clear account of themselves.

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CHILD LABOR ought to be abolished, not so much at the behest of the duty of safeguarding the Republic, but rather because of the duty of the Republic to safeguard its children. The child-labor battle should be waged on the highest possible ground,—the right of the child to justice.—

Dr. STEPHEN S. WISE

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Control of Children by the State

BY HONORABLE BEN. B. LINDSEY

Judge of the Juvenile Court, Denver, Colo.

IN dealing with the morals of the child, it has never been the purpose of the state to usurp the function of the home, the school, or the Church; but under our form of government, it always has been the duty of the state to deal with certain child offenders. Under the common law accepted in many of the states of the Union with some modifications by statute, a child after the age of seven might be guilty of crime; and when he violated the law he was dealt with by the state, under the same court procedure as in the case of adult criminals. One of the first protests against this absurdity was made by a schoolmaster in England in a treatise on criminal jurisprudence and the actual working of the penal code of laws, published in London in 1833. Please observe this description of trials of boys in the Old Bailey Court, the leading criminal court of London:

HON. BEN. B. LINDSEY

"The Old Bailey Court, in proportion to the numbers, as often sentenced boys as men to transportation for fourteen years and life. Nothing can be more absurd than the practice of passing sentence of death on boys under fourteen years of age for petty offenses. I have known five in one session in this awful situation; one for stealing a comb almost valueless, two for a child's sixpenny story book, another for a man's stock, and the fifth for pawning his mother's shawl. In four of these cases the boys put their hands through a broken pane of glass in a shop window, and stole the articles for which they were sentenced to death, and subsequently transported for life. This act, in legal technicality, is housebreaking. The law presumes they break the glass, and it is probable in most instances they do so. In two of the cases here named, however, the prosecutrix's daughter told me there was only a piece of brown paper to supply the place of that which once had been glass. In the latter case, the unfortunate mother caused her son to be apprehended, in the hopes of persuading the magistrate to recommend him to the Refuge for the Destitute, or some other charitable institution. She, however, in the course of her examination, said she was from home, and that the house was locked up at the time of the shawl being taken, which was afterwards found at a pawnbroker's. This made it housebreaking; and, in spite of all the mother's efforts, he was condemned to death. He is now in the penitentiary. The judges who award the punishments at the Old Bailey appear to me as if they were under the influence of sudden impulses of

severity, there being at no time any regular system to be recognized in their proceedings. This the prisoners know, and speculate on, particularly the boys."

Within a hundred years boys, it would seem, have been hanged for what now is denominated petty larceny, and it is not much beyond this period when they were beheaded and their heads stuck upon gibbets as the gruesome reminder of the punishment in store for thieves; and even with two hundred offenses in England at that period punishable by death, many of which to-day are looked upon as the petty offenses, crime increased. It was such protests as that of the old schoolmaster that caused considerate home secretaries to commute such sentences to imprisonment for life or a period of years in the penitentiary; but to one at all familiar with the degradation that came to childhood through the old methods of the jails, this consideration might be questionable. The state that sent the child out into life with his soul seared and his body debauched, as through jails was so often the case, was just as culpable as the state that choked the child to death upon the theory that it was choking crime. The state had not waked up to the difference between evil and the child; it had not waked up to the truth the Master taught, that evil is overcome with good, not with the stripe, the iron bar, or the degrading lash, much less the hangman's noose. The Federal government as yet has not provided us with very reliable statistics as to the number of children dealt with by police officers and courts. And it is to be hoped that a Federal children's bureau will be established, to gather, specialize, and focus statistics and facts upon this important subject.

I am satisfied, however, from special inquiry, and investigation in sixty of the large cities and towns of the nation, that we do not overestimate when we place the number of children dealt with by police and court officials every year at one hundred thousand. It might reach two hundred thousand.

As the ages of dependents and delinquents are now being measured in most of the states up to the eighteenth year, it will be seen that within the period of delinquency and dependency, as fixed by the laws of the states, the courts of the nation are called upon within this period of the child's life to deal with nearly two million children under this minimum estimate, and nearly four million under the maximum estimate.

But counting the number even at a million, it should be sufficient to emphasize the responsibility of the state for the child. Until some very material economic changes are brought about, this number is more likely to increase than to decrease. Courts alone will not stop the increase. They are not cure-alls. Children's courts can do much, but whatever they do must be done largely through the home, the school, and the Church. They must bring into the life of the child the influences that come from these institutions responsible for the child, and therefore, the appeal of the state must be to the home, the school, and the Church. In dealing with his morals, instead of taking the child out of these three institutions of his life and putting him in jail, he must be placed under those influences that are as near akin to them as it is possible for the state to devise. The state's effort in this direction may be seen in the development of the industrial schools, training schools, parental schools, detention-home schools, the probation system, and that marvelous revolution in the law which came upon us about ten years ago in Colorado and in Illinois, when the child for the first time in the history of jurisprudence was no longer regarded by the state as a criminal, but rather as its ward; no longer looked upon as the malefactor, to be hung or degraded through the mire and filth of jails and criminal courts, but rather, as in the language of our own statute, "one to be aided, assisted, encouraged, educated;" in a word, to be saved to good citizenship, to be redeemed as the most valuable asset of the state. Therefore, since the appeal of the state must be principally to the home and the school, the work must be done principally by and through the home and the school.

The average young child is frankly, innocently unmoral. He takes what he wants, if he can get it, not because he is an embryonic thief, but because this

is nature; not human nature, but nature itself, and nature is seldom altruistic. The normal child is merely a healthy little animal, to start with, and his morals develop, grow with his growth and strengthen with his strength only when they are guided in the right direction. The most demoralizing agency in childhood is fear, and it may be found at the bottom of most of the immorality among children. The child lies because he is afraid to tell the truth; he may be afraid of a whipping, of one parent or the other, of a bigger boy, of the teacher, of some far-off abstraction called God, a remoter abstraction called the Devil, or a fearfully imminent reality called the bogie man, said to haunt all dark places. In any event, no matter what it is he fears, it is fear that makes him a liar, and this opens the way for all the other derelictions of youth, and age too, for that matter. I lay emphasis upon this because the habit of truth-telling and the attitude of fearlessness are generally either dominant or lacking in the child before he enters the public school. The school is what the children make it, moral, unmoral, or immoral, according to the homes they come from, quite as much as the children are a product of the school. It is very lovely to think of childhood as the age of innocence and uncontaminated virtue, but it is also very dangerous; for childhood left to follow its own devices, its own untaught impulses, its purely animal emotions, is very far from that ideal that we like to believe it. Our morals are very largely a matter of relationship to the life around us. Thou shalt not bear false witness, thou shalt not kill, thou shalt not follow a multitude to do evil, thou shalt not oppress a stranger, thou shalt not covet,—these are the temptations that come with community life, and the boy and girl who go to school are assailed on all sides as never before. It is not to be wondered at that they fail now and then.

Ask the average boy in the juvenile court why he will not steal again, and nine times out of ten he will give you precisely the same answer: "I will get in jail." To my mind, that is an indictment by the child of the teaching in the home and the school. The child has learned his lesson wrong, a lesson unconsciously taught by parent or teacher: "Steal all you can, cheat all you can, so long as you don't get caught." It is the lesson he carries with him through life into the commercial and business world, and the lesson that develops many of our most dangerous criminals in the world of business and finance. Their intelligence (or, if it fails, the same intelligence of shrewd lawyers ever held in reserve) makes them masters of the art of not getting caught, and like the delinquent child, getting what they want lawfully, if they can; lawlessly, if they must.

One of our difficulties is to overcome this careless teaching, and to teach the child to do right because it is right; because he hurts himself when he does wrong, and because he owes it to himself to do right; because it is weak and cowardly to do wrong, and because it is strong and brave to do right. The threat of a mother or teacher to turn the child over to the policeman or jailer has, in my judgment, started as many criminal careers as any mistake ever made. It is well to hold up the consequences of evil doing, but in doing this the undeveloped mind of the child has too often accepted it as the real motive or the only motive for righteous conduct.

I also wish to contend for a different definition of the sins of childhood. Ignorance of the law cannot be pleaded as an excuse by man; but how is a child to know until he is taught, and why condemn thoughtlessness and ignorance in the same terms which we bestow upon hardened vice? We shall deal more justly with erring youth, and more wisely with the great problem of zigzag human nature if we look upon the cardinal virtues as an achievement, rather than a heritage lost early in life.

After all, the protection of the child against immorality in his life depends upon the strength of his character. Character is founded upon conscience, and conscience comes from the development of the human heart; therefore, the necessity for moral and religious training, which is the very basis of all our principal education and the most important part of it. Thus to solve these difficulties of childhood and youth we must

fall back upon the home, the school, and the Church; and in these recent times of congested cities I would add another factor,—the neighborhood itself. We have four factors in the development of character and childhood which I should put in this order: (1) the home; (2) the Church; (3) the school; (4) the neighborhood.

Of course, the home means the parents, the Church means the Word of God, or other ethical training. It would be well if we had such a perfect condition of society that we could depend principally upon the home and the Church for this moral training; but how is that possible when there are hundreds of thousands of children without homes who are left to shift for themselves because of the ignorance and indifference of parents, or through some economic, social, or political condition? Divorce, desertion, drink, ignorance, poverty, crime, and evil neighborhoods, where lawlessness flourishes through bad politics, provide an example and environment that is a constant source of evil to child life. It is hopeless to expect these children to receive instruction from the natural source,—father and mother. For similar reasons they are without religion or church influence.

Now the state is in certain cases as much responsible for the moral, physical, and mental development of the child, as the parent. Where there is no parent, or where the parents are careless or helpless or unable to discharge their functions, it becomes the duty of the state to step in. Thus we have compulsory school laws, child-labor laws, probate-court laws, juvenile-court laws, non-support laws, contributory-delinquent laws, and so forth. All of these laws simply represent the effort of the state to perform its duty toward the child, just as the clothing and fitting of a child in the home and his being sent to Church, to Sabbath school, or to the public school, represent the effort of the parent to do precisely the same thing. The state, being burdened with parental responsibility under the law of *parens patriæ*, must take a hand in the development of the child; and since the most important factor in its development is its moral character, the state cannot shirk its responsibility in this respect.

Neither can we leave out of consideration the importance of industrial training. Just in proportion as we equip the child for industrial efficiency, to that extent do we equip him for moral efficiency. Human character too weak to resist temptation is a prolific source of immorality. Therefore, just as we equip the boy and girl by practical training to meet the real conditions of life by ability to care for themselves through honest labor, to that extent do we really strengthen character and reduce the chances to yield to temptation. Medical inspection and the work of the visiting nurses alone, through the direction of the schools, can do more for the moral welfare of the children of this nation than all the children's courts can ever do.

One of two things seems fairly plain: either we must revise our ideas of what is to be exacted from the public schools, or we must reorganize the schools upon a very different and much broader and more expensive foundation. If education is to be made not merely a period of schooling, not even a preparatory course for the duties of life, but part of life itself, it is evident to even a cursory observer that the profession of the teacher is shortly to be regarded quite as seriously as that of the physician or lawyer, and remunerated accordingly. There must be many more classes, and instructors who are specialists in the subject with which they deal. Education must be made so fascinating that compulsory school laws and truancy officers will come to be regarded as anomalies.— Reprinted from the Volume of Proceedings, National Education Association.

Juvenile Offenders and their Treatment

BY BURDETT A. RICH

THE change in the attitude of the courts, and in the whole system of procedure, with juvenile offenders, is one of the greatest advances in civilization that have been made in this generation. It is, to be sure, something more than a generation since boys under fourteen were sentenced to death in England for petty crimes, and it was in 1833 that a published protest against the barbarity of the treatment of children by English judges was made by an English schoolmaster. But it is not long since, in our own country, mere children when arrested were everywhere treated as criminals, and even now that state of things is not entirely unknown. But an amazing advance has been made toward humaner and wiser methods.

Prevalence of Juvenile Crime.

The increase in juvenile crime in recent years is almost incredible. A French writer has given statistics to show that such crimes increased fourfold in France between 1826 and 1880. Judge Lindsey, of Denver, says that over half of the inmates of reformatories, jails, and prisons in this country are under twenty. Another judge places the figure still higher, and says that from 65 to 70 per cent of the criminals going through the courts are between the ages of sixteen and twenty-five. An English prison commission report says that the age of from sixteen to twenty is essentially the criminal age, and that between ten and sixteen is the most important age for the care and formation of character. During 1908 in the children's court of the first division of the city of New York over 8,000 boys and girls under the age of sixteen were convicted of offenses. These figures suggest how vast the total of juvenile offenders must be throughout the whole country.

They force upon us a tremendous conviction that the causes for this fearful prevalence of juvenile crime must be investigated and, so far as possible, removed, else we might as well attempt to bail out the Gulf of Mexico with a dipper while mighty rivers continue to flow into it. Those areas in cities which are infested and fester with vice and crime, fashionable vices which the idle rich make more seductive by the glamour of their wealth and position, evil tendencies of many kinds ceaselessly working to undermine character and make criminals of the young,—need to be dealt with in tremendous earnestness and with the sanest wisdom. But until the causes of youthful crime have been well-nigh abolished, we shall have the problem of caring for youthful offenders.

Moral Responsibility of Juvenile offenders.

The theory that crime is a disease, though worked to the point of absurdity by extremists, has grown out of a recognition of the fact that criminal tendencies may be developed by evil environment, physical defects, or other causes, until they become prevalent and persistent, if they do not, in fact, create a permanent criminal character. It strains the common sense of most people to believe that a banker of unblemished reputation and a lifetime of upright business dealings, who, under the stress of temptation caused by his own bad investments, takes the risk of surreptitiously borrowing funds from his bank, thinking he can soon repay them, and thus becomes an embezzler, is entitled to be absolved from either legal or moral responsibility on the ground that his crime was only the result of a disease. So, in a multitude of other cases. But when a boy or a girl grows up in the slums, with nothing but vice and crime for environment and example, criminal tendencies are as inevitable as physical growth, and one may well think long and carefully before at-

tempting to fix the measure of moral responsibility for crimes committed by one thus literally educated to a criminal career. The enlightenment of to-day is, too slowly, but still somewhat rapidly, bringing home to us the conviction that a vast amount of juvenile crime is the direct and inevitable result of the conditions in which these unfortunate criminals have been left to grow up. The best time to save them is before they have even begun to go wrong, but the possibilities of saving them even after they have once come into the grasp of the law for evil doing are still very great, and it is at this point that, thus far, most of the efforts to save them begin.

Juvenile Courts.

Juvenile courts constitute the first step in the practical reform of procedure in the case of juvenile offenders. They have come rapidly into existence in the last decade. Separate courts for juvenile offenders originated in this country. Massachusetts, as early as 1863, made a provision by statute for separating children's cases from those of adult offenders, but not much effect seems to have been given to this law for a considerable time after. New York, in 1877, enacted that children under sixteen should not be put into the company of adult offenders, either in prison or court room or vehicle, except in the presence of proper officials. In 1892 New York provided, as Massachusetts had previously done, that the cases of children under sixteen should be heard and determined "separate and apart from the trial of other criminals," and that a separate docket of them be kept. In 1902, the first separate court in New York for children under sixteen was established. But such a court had been previously established in Illinois in 1899. New York city claims to be the first to hold its sessions in a building of its own, and also to have a separate detention place for children taken into custody for any reason. Since the movement began it has spread rapidly. The children's court of Denver, Colorado, established soon after that of Chicago, has, by the enthusiastic work of Judge Ben B. Lindsey, become the most famous of all the juvenile courts. A large number of cities in this country now have courts of this kind, while foreign countries have been quick to follow the lead. The official report of the children's court of New York city said last year that Great Britain, France, Austria, Hungary, Italy, and other nations had established such courts for children, and that Germany already had eighty-six of them. Representatives of nearly every civilized country in the world have visited the children's court of New York to study its methods.

A Probation System and Methods.

The system of probation is the most important part of any children's court. Its value is so great that courts have been quick to adopt it for many adult offenders. The right of a court to suspend sentence on one who has been convicted was held to be inherent in a court of record in the case of People ex rel. Forsyth v. Court of Sessions, 141 N. Y. 288, 36 N. E. 386, 9 Am. Crim. Rep. 439, 15 Am. Crim. Rep. 675, 23 L.R.A. 856; and in State v. Crook, 115 N. C. 760, 20 S. E. 513, 29 L.R.A. 260; while in other states such power was denied in Re Webb, 89 Wis. 354, 46 Am. St. Rep. 846, 62 N. W. 177, 9 Am. Crim. Rep. 702, 27 L.R.A. 356; Neal v. State, 104 Ga. 509, 69 Am. St. Rep. 175, 30 S. E. 858, 42 L.R.A. 190; and People ex rel. Boenert v. Barrett, 202 Ill. 287, 95 Am. St. Rep. 230, 67 N. E. 23, 63 L.R.A. 82. But some states, by statutory or constitutional provisions, expressly confer this power upon the courts, or deny it. Such power is, however, an essential element of the probation system, and an absolute necessity to any dealing with juvenile offenders as wards of the court instead of as criminals. The methods of the probation system are by no means uniform in different jurisdictions, and it cannot be said that the officials are altogether agreed as to them. A few years more of experience will, no doubt, settle some of these details more definitely. But the results of the probation system in its various forms have been, not merely successful, but overwhelmingly so. One of the probation methods which has attracted great attention is what is called the "big brother" movement. This system enlists young men as probation workers, each of

them having one boy only under his care. In New York city more than a thousand young men, most of them from various men's church organizations, have engaged in this work. Paid probation workers are employed in some places, voluntary probation workers in others, and sometimes both working in the same court. Meetings of judges and other officers and interested persons to consider the development and improvement of this system have become common, and it is clear that we have thus far seen only the beginnings of what is to become a complete revolution in the dealings of the state with juvenile offenders. The last report of the probation commission of New York state shows that more than 9,000 were placed on probation during 1909, and that an increasing number of courts are using the system. The report shows the need of it in rural counties quite as much as in the cities. In the absence of probation, practically the only course available in a rural county is commitment to jail, and this rarely does good, and usually harm.

Should Children's Courts be Regarded as Civil or Criminal.

The power of a court of equity to protect infants even from their own parents, to save them from gross ill-treatment and cruelty or from being reared in immorality, has been for centuries declared and exercised by the English courts of chancery, as shown by many cases reviewed in a note in 37 L.R.A. 787. The question whether a children's court should be regarded as a criminal court or a court of chancery has not been entirely free from uncertainty. The New York city children's court was established as a court of special sessions, and the children are brought before it by arrest. But later laws for children's courts in Buffalo, Rochester, and other New York cities, make them courts of civil instead of criminal procedure, dealing with the children, not as criminals, but as wards in need of the care and protection of the state. This follows the lead of the children's courts in the Western states, nearly all of which are created as tribunals exercising chancery jurisdiction, rather than as courts of criminal procedure. The system which treats the children as wards of the state, to be protected, rather than as criminals, and saves them from the stigma of a conviction for crime, is unquestionably in advance of a system that treats them as criminals and deals with them, however leniently, as convicts. The stigma of being a criminal is not a help in saving a boy from a criminal career.

There has been much opposition to these laws for saving juvenile offenders. Statutes to preserve children from being dealt with as criminals have been attacked as invasions of constitutional guaranties relating to liberty, involuntary servitude, cruel and unusual punishments, due process of law, and the right to jury trial. It is not strange that criminally inclined juveniles should fight for their freedom from restraint, or be able to find lawyers who would fight for them, and probably convince themselves that they were working for the best interests of their clients. But it is fortunate that the courts have, in the main, upheld these statutes, and thus made it possible to carry on the work of saving children from crime, instead of branding and imprisoning them as criminals. A note in 18 L.R.A.(N.S.) 886, reviews the cases which have stubbornly fought against the constitutionality of these statutes, and shows that in most instances the courts have upheld the laws. On such questions as those of jury trial and due process of law it is obvious that a children's court with chancery jurisdiction escapes some of the constitutional difficulties of a criminal court in dealing with a child as a ward of the court. But the tendency at present is toward chancery rather than criminal courts for children, and the chief questions as to the constitutionality of such courts are substantially settled.

Training Schools.

Various other agencies follow or supplement the work of children's courts and the probation system, by finding them suitable homes and providing them suitable schools and other places for their care and training. In Kansas City a boys' hotel has been established, where boys who are earning their own living can live in a decent home at small cost. After using for this purpose an old residence

which would accommodate forty boys, and after the demand had become so great that more than two hundred boys were turned away, a successful campaign to raise funds for an adequate boys' hotel resulted in a subscription of $60,000 for this purpose. Industrial schools have long been established, to which juvenile offenders have been committed, but most of them have been institutions of detention, rather than homes. A most remarkable advance toward the ideal for this kind of an institution has been accomplished at Industry, near Rochester, New York, where the plans of the superintendent, Franklin H. Briggs, have been carried out in the establishment of about thirty homes or colonies, each containing about twenty boys living with a supervisor and a matron in what closely approximates to a family home. The boys have school work for several hours a day and reasonable time for sports and recreation. In working hours they do all the work of their respective farms as well as all the housework in their homes. About 400 acres of land are used for the various farms. The boys of each home have their school work there, and work and live separate from the other colonies, except when they meet by permission. There are no barriers to prevent running away, but the spirit of loyalty developed is such that attempts to leave are rare. This is doubtless the most successful attempt yet made to care for juvenile wards of the state in a large institution, because it approximates closely to family life, which is always recognized as the ideal condition.

The George Junior Republics, already famous, and increasing in number, are working with different methods toward the same result, and training children who would otherwise become criminals into respectable citizens.

In these and similar ways much success is already achieved in training juvenile offenders, and those who are inclined to criminal careers, into good citizenship. All these agencies have begun to lead the way toward a new era in which children will be saved from most of the conditions and influences which now breed criminals, and in which even most of those who have started wrong will be saved from criminal careers.

THE more young criminals are studied the oftener the question is asked as to the amount of personal responsibility they bear for their crimes. It is generally acknowledged that inheritance and environment have far more to do with the production of crime, than any other influence. But inheritance is simply the effects of environment transmitted. We are fond of saying, "Blood will tell," but what we should say is, "Environment will tell whether immediate or transmitted . . ." Because of the feeling that juvenile crime is caused by an environment for which society in general is responsible, we have the juvenile court as it is to-day.—Dr. JAMES A. BRITTON.

Adoption Without Consent of Natural Parents

BY ALMOND G. SHEPARD

ALTHOUGH of ancient origin, the status of adoption was unknown at common law. It was, however, known to the civil law, and also to many ancient countries where neither the common law nor the civil law prevailed. It represents a relation similar to that of parent and child, carrying with it all the rights and privileges as well as the duties of that relation, and is usually, although not always, created with the consent of or by agreement between the adoptive parents of the one part and the natural parents or ancestor of the other. Where these agreements are not inimical to the welfare of the child concerned, or otherwise violative of public policy, they are sustained. Of late, however, in many, if not all, of the states this status has been authorized by statute to be created, under certain circumstances, without the consent and even against the consent of the natural parents, or one of them, the adoptive parents, of course, consenting thereto. It is the purpose of this article to consider the status of adoption authorized by these later statutory provisions, as affected by the failure to obtain the consent thereto of the natural parents.

Power of State to Intervene between Parent and Child.

Adoption involves a change of status primarily affecting the rights of the adopting parents, the natural parents, and the child concerned. As already stated, it is statutory, and differs widely from orders or decrees made in judicial proceedings temporarily affecting the custody of the child; as an order or decree of adoption is much broader in its scope, since it utterly and for all time terminates the relation between the child and his natural parents, and establishes similar relations between the child and his adoptive parents. The natural parents are seriously affected by such an order or decree, as it deprives them not only of the right to the care and custody of the child and to his earnings, but it also severs the most sacred tie known to civilization—a tie which has been respected even in despotic countries and in ages when the general property rights of the citizen received but scant protection.

The rights of the natural parents in their children, however, are not absolute in their nature, and are subject to regulation by the state. Every child owes allegiance to the government of the country of his birth, and is entitled to the protection of that government, which should consult his welfare, comfort, and interests in regulating his custody during minority. It is the duty of the state of the child's domicil to act as *parens patriæ*, to the extent, at least, of finding a home and protector for every child within its borders. In recognition of this duty, as already stated, nearly, if not all, the states have provided by statute for the adoption of children domiciled therein, both with and without the consent of their natural parents. Ordinarily, however, the state intervenes only upon the destitution and necessity of the child. In such cases, at least, the state has the power to create a status of adoption as to infants within its borders whenever a petition for adoption is brought by a domiciled inhabitant thereof, and in some jurisdictions when brought by a nonresident, which refers to an infant therein in need of the protection of the state. Interfering, however, as they do with the rights of the natural parents, adoption proceedings should be in the nature of judicial proceedings, and

based upon actual or constructive notice to the natural parents.[1]

Abandoned Child.

The general requirement as to notice to the natural parents, however, does not apply in all cases. Thus, where the natural parents have abandoned their child and left him a charge upon the state, or he has been taken from their custody by judicial proceedings on the ground of improper guardianship, unless the statute relating to adoption expressly requires notice to the natural parents, or where expressly dispensed with, notice is not necessary; the theory being that the natural parents have forfeited all their rights in the child and are no longer legally interested in orders or decrees thereafter made concerning him.[2]

As affecting the jurisdiction of the court, notice to the natural parents of proceedings to adopt an abandoned child, is not necessary where, by statute, notice of such proceedings is dispensed with. The fact of abandonment judicially determined is, however, essential to the jurisdiction of the court, but it is not necessary that it should be determined upon proper evidence or in accordance with the truth, as mere error in that regard will not affect the jurisdiction, the question of jurisdiction not being dependent upon whether the court rightly or wrongly determined a question of fact upon which its jurisdiction depended. Upon the fact being established that the parent has abandoned his child, he is deemed to have thereby relinquished all parental right to be consulted in respect to the child's welfare.[3] And where the proceeding to adopt is based upon the charge that the natural parents have abandoned the child concerned, the validity of the proceeding does not depend upon notice to such parents; the question of abandonment being one of fact, and if found by the court to exist, the jurisdiction is complete.[4]

But where the question was directly raised by one of the natural parents, who received no notice of adoption proceedings based upon the claim that he had abandoned his child, it was asserted that a court could not be clothed with authority to decree that a parent had deserted his child and forfeited his parental rights, without notice to him.[5]

Illegitimate Child.

As the mother of an illegitimate child has all the parental rights of other parents, she is entitled to notice of proceedings to adopt the child.[6] Her consent to the adoption is sufficient, although at the time of giving the consent she is a minor.[7] The consent of the father of an illegitimate child is not sufficient,[8] even though he has previously legitimatized the child.[8½] And it is not necessary to give him notice of proceedings to adopt such a child.[9]

Where the custody of an illegitimate child was taken from the mother on the ground of her misconduct, neglect, crime, drunkenness, and other vices, after due notice to her, and she acquiesced therein for a considerable period of time, and permitted the child to be supported as a

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[1] Stearns v. Allen, 183 Mass. 404, 97 Am. St. Rep. 441, 67 N. E. 349; Schiltz v. Roenitz, 86 Wis. 31, 39 Am. St. Rep. 873, 56 N. W. 194, 21 L.R.A. 483; Sullivan v. People, 224 Ill. 468, 79 N. E. 695; Winans v. Luppie, 47 N. J. Eq. 302, 20 Atl. 969; Beatty v. Davenport, 45 Wash. 555, 122 Am. St. Rep. 937, 88 Pac. 1109, 13 A. & E. Ann. Cas. 585; Re Sleep, 6 Pa. Dist. R. 256.

[2] Re Larson, 31 Hun, 539; Omaha Water Co. v. Schamel, 78 C. C. A. 68, 147 Fed. 504; Von Beck v. Thomsen, 44 App. Div. 373, 60 N. Y. Supp. 1094, affirmed without opinion, in 167 N. Y. 601, 60 N. E. 1121; Dupre's Succession, 116 La. 1090, 41 So. 324; Edds's Appeal, 137 Mass. 346; Tiffany v. Wright, 79 Neb. 10, 112 N. W. 311; Leonard v. Honisfager, 43 Ind. App. 607, 88 N. E. 91; Egoff v. Madison County, 170 Ind. 238, 84 N. E. 151.

[3] Parsons v. Parsons, 101 Wis. 76, 70 Am. St. Rep. 894, 77 N. W. 147.

[4] Nugent v. Powell, 4 Wyo. 173, 62 Am. St. Rep. 17, 33 Pac. 23, 20 L.R.A. 199.

[5] Sullivan v. People, 224 Ill. 468, 79 N. E. 695.

[6] Purinton v. Jamrock, 195 Mass. 187, 18 L.R.A.(N.S.) 927, 80 N. E. 802; Re Sleep, 6 Pa. Dist. R. 256.

[7] Re Bush, 47 Kan. 264, 27 Pac. 1003.

[8] Allison v. Bryan (Okla.) 109 Pac. 934, — L.R.A.(N.S.) —.

[8½] Allison v. Bryan, 109 Pac. 934, — L.R.A.(N.S.). —.

[9] Gibson's Appeal, 154 Mass. 378, 28 N. E. 296.

pauper by the commonwealth, she was held not entitled to notice of proceedings to adopt him.[10]

Upon the abandonment of an illegitimate child by a mother, adoption proceedings may be sustained, and the child adopted and transferred to his adoptive parents, although the mother appears in the proceedings and objects thereto.[11] And even as against the mother's consent, where such proceeding is authorized by statute, the father of an illegitimate child may legitimatize the child and thereby obtain the right to his care and custody, even though the mother is of good moral character and is qualified to give the child a good home.[12] At first glance this proposition would seem to be opposed to the general rule relative to the adoption of children. It may, however, be reconciled on the theory of a distinction between adoption proceedings and proceedings to legitimatize an illegitimate child. The latter proceedings do not deprive the mother of her rights as mother to the child, although by such proceedings the father may gain a predominant right to the care and custody of the child. This distinction is made in a case decided by the Oklahoma Court since the preparation of this article.[12½]

What Amounts to Abandonment.

In view of the statutory provisions authorizing the adoption of abandoned children, it is of importance to determine the meaning of the term "abandoned" as thus employed. No attempt has been made by statute to define the term, and but few attempts so to do have been made by the courts. It has, however, been held that the statutory notion of abandonment does not necessarily imply that the parent has deserted the child or even ceased to feel any concern in its interests. It may fairly import any conduct on the part of the parent which evidences an established purpose to forego the parental duties and relinquish the parental claims to the child, and when such an abandonment is once shown to have existed, it becomes a judicial question whether it thereafter has been terminated, or can be terminated consistently with the welfare of the child.[13]

But a parent cannot be said to have abandoned her child where she has made careful provision for it, and secured a home and caretaker; as an abandonment is to foresake entirely, to renounce and forsake,—to leave with a view never to return.[14] A few cases in which the court has determined that a child has not been abandoned within the terms of such statutes are hereafter considered as affecting the question of the conclusiveness of the order or decree of adoption; no attempt to define the term, however, is made in these cases.

Nonresidence of Parent.

The fact that the natural father is a nonresident of the state is no reason for not giving him notice, actual or constructive, of proceedings to adopt his child; and such proceedings if not based upon notice to him, or without securing his consent to the adoption, are invalid and subject to collateral attack by him for that reason.[15] But notice by publication to a nonresident father is sufficient where the adoptive parents, the child, and the child's natural mother, are within the state in which the proceeding is had, and consent thereto.[16]

Where Parents are Divorced or Live Separate.

Ordinarily the mere fact that the parents are not living together, or are divorced, presents no tenable ground for

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[10] Purinton v. Jamrock, 195 Mass. 187, 18 L.R.A.(N.S.) 927, 80 N. E. 802.

[11] Richards v. Matteson, 8 S. D. 77, 65 N. W. 428; Winans v. Luppie, 47 N. J. Eq. 302, 20 Atl. 969.

[12] Allison v. Bryan, 21 Okla. 557, 97 Pac. 282, 18 L.R.A.(N.S.) 931.

[12½] Allison v. Bryan, 109 Pac. 934, — L.R.A.(N.S.) —.

[13] Winans v. Luppie, 47 N. J. Eq. 302, 20 Atl. 969.

[14] Booth v. Van Allen, 7 Phila. 401. And see remarks of Marshal, J., in Parsons v. Parsons, 101 Wis. 76.

[15] Furgeson v. Jones, 17 Or. 204, 11 Am. St. Rep. 808, 20 Pac. 842, 3 L.R.A. 620.

[16] Stearns v. Allen, 183 Mass. 404, 97 Am. St. Rep. 441, 67 N. E. 349.

denying to either of them the right to notice of proceedings to adopt their child, and the right to be heard therein, even though the parent having the custody of the child consents to his adoption. As regards the right to notice, it is immaterial that, by a decree of divorce, the custody of the child is given to one of the parents, who consents to the adoption. As already seen, a decree affecting the temporary custody of a child is not followed by the same consequences as is a decree of adoption. The mere fact that one of the parents is temporarily deprived of the custody of a child is no basis for the absolute and utter deprivation of all parental rights in a child, without notice or opportunity to be heard.[17]

But a divorce of the parents may, by a statutory provision to that effect, render unnecessary the giving of notice to the parent who, by the decree of divorce, is deprived of parental rights to the custody of the child, and who does not thereafter contribute to his support; and the adoption proceeding in such cases is sufficient, as affecting the child's right of inheritance, although not based upon the consent of or notice to the divorced parent who did not have the custody of the child.[18]

A divorce granted the mother on the ground of desertion by the father, together with his absence and the failure upon his part to thereafter render parental assistance or aid to the child, makes a sufficient case of desertion of both mother and child to sustain proceedings to adopt the child based merely upon the consent of the mother.[19]

The consent of the mother of a child to its adoption by another has been held to be necessary only when she is living with her husband, or has the custody and control of her child; and such notice is not necessary when she is living separate and apart from her husband, who has the charge and control of the child.[20] This doctrine was asserted by the court in a case where in one of the adoptive parents was seeking to invalidate the adoption on the ground of want of notice to the mother. It is very questionable whether the court would apply this rule where the mother herself was attacking the adoption proceedings on this ground.[21]

Conclusion of Proceeding upon Nonconsenting Parent or Stranger.

In jurisdictions where the rule prevails that notice to the natural parents of abandoned children, of proceedings for their adoption, is unnecessary, such proceedings are held not to be conclusive upon a parent not receiving notice thereof, and not appearing therein, and by a proper proceeding such parent is permitted to litigate the question of abandonment and to have reopened the order of adoption.[22] A judgment of adoption based upon a finding of abandonment is not necessarily conclusive upon a parent who had no notice of the proceeding, and the proceeding may be avoided by showing the nonexistence of the fact of abandonment upon which the jurisdiction depended.[23] And an order of adoption based upon the claim that a child has been abandoned and that the residence of its parents is unknown will be set aside where the claim is false, fraud having been practised upon the court in that respect.[24] So, an order for the adoption of a child based upon the consent of the father, without notice to the mother, on the claim that she had deserted the child, will be set aside upon her petition, where the claim of abandonment is false and is disproved by her.[25] Likewise adoption proceedings based upon the false claim that the mother

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[17] Willis v. Bell, 86 Ark. 473, 111 S. W. 808; Miller v. Higgins (Cal.) 111 Pac. 403.

[18] Re Williams, 102 Cal. 70, 41 Am. St. Rep. 163, 36 Pac. 407. And see Hopkins v. Antrobus, 120 Iowa, 21, 94 N. W. 251.

[19] Baker v. Strahorn, 33 Ill. App. 59.

[20] James v. James, 35 Wash. 655, 77 Pac. 1082.

[21] Beatty v. Davenport, 45 Wash. 555, 122 Am. St. Rep. 937, 88 Pac. 1109, 13 A. & E. Ann. Cas. 585.

[22] Parsons v. Parsons, 101 Wis. 76, 70 Am. St. Rep. 894, 77 N. W. 147; Schiltz v. Roenitz, 86 Wis. 31, 39 Am. St. Rep. 873, 56 N. W. 194, 21 L.R.A. 483; Booth v. Van Allen, 7 Phila. 401; Re Olson, 3 Ohio N. P. 304; Re Carter, 77 Kan. 765, 93 Pac. 584; Lee v. Back, 30 Ind. 148.

[23] Nugent v. Powell, 4 Wyo. 173, 62 Am. St. Rep. 17, 33 Pac. 23, 20 L.R.A. 199.

[24] Booth v. Van Allen, 7 Phila. 401.

[25] Re Olson, 3 Ohio N. P. 304.

has abandoned her child, are void as to the mother where she, at the time, was a resident of the state, and no notice of any kind was given her of the proceedings, and she had not consented thereto.[26]

Any false allegation in the petition of the adoptive parent that the natural parents have abandoned the child is a fraud upon the court, and a decree of adoption based upon such a petition will have no effect upon the rights of the natural parents, who had no notice thereof.[28] And the mother of a child of whose custody she has been unlawfully deprived by the father, may collaterally attack adoption proceedings based upon the consent of the father and the false claim that the mother had abandoned the child, although she was not a resident of the state, where no notice of the adoption proceeding was given her and her residence was known to the parties to the proceeding.[29]

So, where a father, after a quarrel with his wife, left her and went to another state, where he obtained employment and from whence he continued to support his wife and family, his act did not amount to abandonment of his child, and hence the adoption of the child based upon the consent of the mother and the claim of abandonment by the father was no bar to habeas corpus proceedings by the father for the custody of the child.[30]

A stranger to the proceeding may also collaterally attack the judgment of adoption where it is invalid, because no notice of the proceeding was given the natural parents and they did not appear therein or consent thereto.[31]

Parties to the Proceedings and Their Privies.

But although such proceedings may, on the ground of failure to obtain the consent of, or give notice to the natural parents, be successfully attacked by the natural parents, or even a stranger, it is, however, different as to parties to the proceedings and also their heirs, privies, or personal representatives, none of whom are entitled to attack a judgment of adoption because based upon proceedings of which no notice, actual or constructive, was given the natural parents.[32]

Proceedings to avoid a judgment of adoption on the ground that the child was not an abandoned child, the parents having received no notice of the proceeding, are of an equitable nature, and after the lapse of many years during which time the status of the child has been recognized as legally fixed by the judgment of a court of competent jurisdiction by all the parties to the proceeding, neither the parties nor their privies are entitled to apply to the equitable powers of the court to have declared void the proceedings, for failure to give notice to the natural parents.[33]

Conclusion.

In conclusion it may be said that adoption statutes are humane provisions intended primarily for the protection and well-being of helpless and homeless children. To effectuate this laudable object, the provisions should be liberally construed, and the parties thereto and their privies should be denied the right to collaterally assail the proceeding. When, however, as is frequently the case, the attempt is made to pervert these benign provisions to a purpose foreign to their object, and to use them to sever the relation of parent and child, generally to intrench one of the parents or other relative in their possession and custody, the statute should not receive the same liberal construction, but should be so construed as to preserve to each parent the right to be heard in a proceeding so materially affecting them and their offspring.

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[26] Re Carter, 77 Kan. 765, 93 Pac. 584.

[28] Lee v. Back, 30 Ind. 148.

[29] Beatty v. Davenport, 45 Wash. 555, 122 Am. St. Rep. 937, 88 Pac. 1109, 13 A. & E. Ann. Cas. 585.

[30] People ex rel. Cornelius v. Callan, 124 N. Y. Supp. 1074.

[31] Taber v. Douglass, 101 Me. 363, 64 Atl. 653; Beatty v. Davenport, 45 Wash. 555, 122 Am. St. Rep. 937, 88 Pac. 1109, 13 A. & E. Ann. Cas. 585.

[32] Woodward's Appeal, 81 Conn. 152, 70 Atl. 453; Sullivan v. People, 224 Ill. 468, 79 N. E. 695; Ross v. Ross, 129 Mass. 243, 37 Am. Rep. 321; Coleman v. Coleman, 81 Ark. 7, 98 S. W. 733; Nugent v. Powell, 4 Wyo. 173, 62 Am. St. Rep. 17, 33 Pac. 23, 20 L.R.A. 199.

[33] Parsons v. Parsons, 101 Wis. 76, 70 Am. St. Rep. 894, 77 N. W. 147.

To take a child from his parents and consign him absolutely to the care and control of another is a serious step for a court to take, a step which should never be taken except after a full and complete hearing, and then only for clearly good reasons. Except in such cases the necessities and well-being of the social state do not require the severing of the parental tie, and is more to be conserved by protecting and fostering it. For, after all, no one is as competent to understand a child as are his natural parents; no one as well qualified to aid him in overcoming his atavistic tendencies. With a better understanding of his weaknesses, and greater patience because of such understanding, and a greater affection arising from the parental relation, the natural parents, unless clearly undeserving, are more apt than adoptive parents to be successful in rearing children to good manhood and womanhood.

"THE children are the seed corn of the nation, and it was Jefferson Davis himself who announced to his compeers, 'We must not grind the seed corn.' The state has a right in this matter, because the interests of the state are concerned. Of course, you know that amongst the Greeks the idea of the state took the very first importance in fact. Among the Spartans that position, that the interests of the state were absolutely supreme, took such a definite and sovereign position that they assumed the right even to destroy defective children. In our democracy we do not take so radical a view, but still the same principle holds. It is the opinion of the best thinkers since the beginning of government, that the state has a right to perpetuate its own life, and in saving the children from undue work,—work coming upon them at a time when they are simply developing to become citizens,—the state is only taking that right which has been accorded to her by the best thinkers of the race."—EDWIN MARKHAM.

The Editor's Comments

A review of legal news or discussions in the daily press.

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Edited by Asa W. Russell.

Surgery as an Aid to Law and Morals.

IT is now a commonplace of medical and reform literature, says the Record Herald, that much truancy and juvenile deliquency may be due not to "depravity," but to some physical or mental defect. A school boy may be inattentive because of an abnormal growth, of difficulty in breathing, or hookworm poisoning. A child may seem "vicious" when it is only morally or physically defective, in need of cure, proper feeding, surgical treatment.

In Chicago they have, in connection with the juvenile court, a limited medical service for the examination of the physical and mental traits of delinquents. The experiment has not been tried sufficiently to warrant large conclusions, but in time valuable *data* will be collected and additional knowledge gained as to the relation between crime and inherited or acquired defects in body and mind.

It is interesting to know that in New York the subject of surgical or medical treatment as a cure for truancy and delinquency is now receiving due attention, and that benevolent persons are prepared to equip a laboratory, clinic, and even a farm in the country, for the proper handling, after examination and "first aid," of little patients requiring elaborate care.

Recreants brought to the children's court in New York city whose delinquency is attributed to physical causes will be examined by experts. Surgery will be employed for minor afflictions, with the consent of the parents and the presiding officer of the children's court.

"It should be understood that surgical work is a detail of the plans," says Dr. Schlapp. "Medicine, rather than surgery, and healthful surroundings while the patient is under treatment, will be depended upon to effect cures. The consent of all concerned being secured, a patient suffering from growths in the nose which obstruct proper breathing, enlarged or inflamed glands in the throat, or minor ailments that oftenest are the results of inherited taints, will be recommended for surgical treatment."

"If children having such physical characteristics aren't taken care of," say the officers of the children's society, "they are apt to develop into habitual criminals. The examinations are to be most conservative, and no operations are to be undertaken except in cases where they can reasonably be expected to cure mental deficiency."

Surgical operations were once facetiously suggested as a means of putting a sense of humor into dull people. The idea of surgical operations to put the moral sense or the "will to do good" into erring children is neither paradoxical nor humorous.

But there are accidental criminals, the victims of disease and injury. If sci-

ence by cure or operation can restore such victims to sanity and morality, they should have their liberty upon assurance by competent authority of their entire restoration. A thief whom an operation can remake a respectable man should not expiate his misfortune by a term in prison. Science teaches charity and also sense.

More Law than Restraint.

STUDENTS of sociology, says the Haverhill Gazette, have become convinced of the existence of one stumbling-block. There is too much law for the boy. If the youngster, in a city of moderate size, cuts any capers due to juvenile effervescence and a spirit of mischief, rather than to criminal intent, the chances are that he will be dragged into court.

There has been a wide departure from the practices of the immediate past, when a youngster was kept busy learning the fundaments of a profession or a trade. The change has been to the disadvantage of the country. We have evolved to the point where the boy is given no opportunity to "effervesce" without running the risk of arrest. There should be more restraint and less law.

The Duluth Tribune cites such an instance, where a boy was placed "on probation," with a charge of disorderly conduct written against him, because he threw a snowball into the ear of a grouchy dyspeptic who had involuntarily offered himself as a target for the youngster's marksmanship. In the opinion of a famous judge of juveniles the great proportion of juvenile offenses can be traced to one of two things:

(1) Inability of parents to meet their responsibilities.

(2) Inadequacy of society and the public school system to fulfil requirements.

The trouble with the boys is that they have no steady occupation to confine their activities. They are, in some respect, like nine tenths of the women who parade their troubles in the divorce courts. They have no responsibilities. Anyone who will take the trouble to round up the boys of any city after school hours will find a large proportion of them amid surroundings that are detrimental. Perhaps they will be in a pool room; they may be loitering on the streets; they may assemble under dominant leadership in a vacant lot planning a diversion that will carry them close to a violation of the law. In most of the cases the boys are not what they ought to be, and they are where they ought not to be.

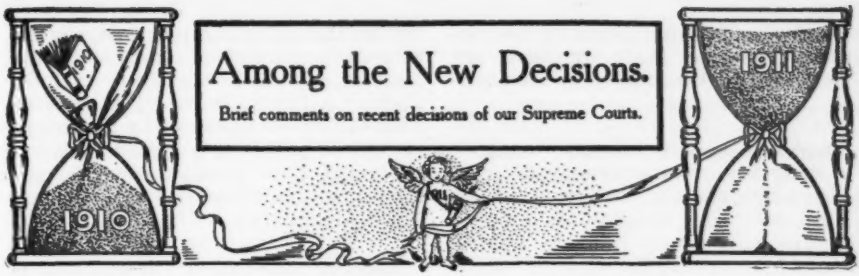
One of the worst criticisms of the present age, with all its boasted progress, is that it does not properly take care of its boys. It differs radically from the custom of a generation ago, when the "apprentice system" was in vogue. Apprenticing a boy did not necessarily mean harm to him. In a majority of cases, it benefited him. It forced him to learn a trade and at the same time it kept him out of mischief.

The Rights of Children.

JUDGE E. E. Porterfield, who presides over the juvenile court in Kansas City, has taken steps, according to the St. Louis Star, to protect the rights of children involved in suits instituted by parents for divorce.

The announcement is made by Judge Porterfield that he will appoint a competent attorney who will represent the children of litigants in divorce courts. The attorney, through investigation, will determine the manner in which the children have been provided for, and methods for their protection, before the cases are called by the trial judges. It is expected in this manner that courts will obtain much important information, now usually absent, in the suits of mismated couples.

This plan was adopted by Judge Porterfield after an experience as judge of the juvenile court in which some of his most pathetic duties have been in connection with children practically abandoned because of the separation of their parents. It is said that the six judges of the Kansas City circuit courts approve the plan proposed, and will cooperate to the end that it may, so far as possible, succeed. Some of them say there will, through its operation, be a heavy decrease in the number of divorces granted. The Kansas City idea will be watched with interest.



Among the New Decisions.

Brief comments on recent decisions of our Supreme Courts.

Banks—power to accept trust deed—who may object.—Mr. Justice Hughes' first judicial utterance from the bench of the Supreme Court of the United States was on November 7, 1910, in the case of Kerfoot v. Farmers' & Merchants' Bank, Adv. S. U. S. 1910, p. 14, 31 Sup. Ct. Rep. 14, where, speaking for the court, he laid down the rule that the want of authority of a national bank to accept a conveyance of real property in trust is not available to private persons as a ground for avoiding the deed, but that the United States alone may complain. The new justice's opinion is clear and concise, and affords ground for the belief that he will prove a valuable and efficient member of that august tribunal, the Federal Supreme Court.

Bank—authority of cashier—promise to maker of note.—It is a general rule recognized by the great majority of the cases, that the president or cashier or any other similar executive officer of a bank has no authority, simply by virtue of his office, to bind his bank by an agreement made with the maker or indorsers of commercial paper payable to the bank, that their liability on such paper will not be enforced. The rule applies whether the agreement is made before the paper has been signed, or after.

In conformity with this rule it was held in the recent case of State Bank v. Forsyth (Mont.) 108 Pac. 914, annotated in 28 L.R.A.(N.S.) 501, that the cashier of a bank has no authority to bind the bank by his promise that one signing paper without consideration, to replace that of the cashier, to enable the bank to pass inspection, shall not be held liable thereon, and one signing such paper is chargeable with notice of such want of authority, and acts at his peril in relying on the promise.

Bank—authority of cashier—qualified indorsement.—The few reported cases upon the subject hold that a bank president or cashier, merely by virtue of his office, has no power to bind the bank by an agreement that the liability of parties to commercial paper shall be different from that imported upon its face.

The recent case of First Nat. Bank v. Lowther-Kaufman Oil & Coal Co. 66 W. Va. 505, 66 S. E. 713, annotated in 28 L.R.A.(N.S.) 511, holds, in agreement with the earlier authorities, that a cashier has no authority, simply by virtue of his office, to bind his bank by an agreement made with the indorsers on a promissory note, and unknown to the directors, to the effect that each of said indorsers shall be liable only for a certain proportion of the debt; and it matters not whether such contract relates to original notes presented for discount, or to notes taken either in payment or in renewal, or pre-existing notes.

Carriers—passenger—visiting depot to leave baggage.—There is very little authority upon the rights of one going to a railroad station to deposit baggage. The recent Mississippi case of Metcalf v. Yazoo & M. Valley R. Co. 52 So. 355, annotated in 28 L.R.A.(N.S.) 311, holds that one who goes to a railroad station a few minutes before the arrival of his train is entitled to the rights of a passenger, although his intention is merely to leave his hand baggage and depart again to transact some personal business before train time, where by statute the railroad company is required to keep its station open at least an hour before the arrival

of trains; and he may therefore hold the railroad company liable for an injury due to the unsafe condition of the premises.

Death—presumption—absence—search.—As declared in the note appended to Modern Woodmen v. Gerdom, 2 L.R.A.(N.S.) 809, the weight of modern authority supports the rule that diligent inquiry for a missing person is necessary to raise a presumption of his death from seven years' absence.

The recent case of Miller v. Sovereign Camp W. W. 140 Wis. 505, 122 N. W. 1126, annotated in 28 L.R.A.(N.S.) 178, follows, however, the earlier rule holding proof of diligent search and inquiry is not required to establish the presumption of death when a person has absented himself from his home or place of residence for seven years.

But in Kennedy v. Modern Woodmen, 243 Ill. 560, 90 N. E. 1084, 28 L.R.A.(N.S.) 181, it is determined that mere failure of the relatives of one who disappeared without explanation, and remained absent from home for more than seven years, to follow up rumors that he had been seen in different places, and institute diligent inquiry in such places for him, is not sufficient to overcome the presumption of death arising from such absence. This case further holds that the relatives of one who disappeared without explanation, and has remained absent from home for more than seven years, are not bound to follow up intelligence of a tangible and definite character as to his whereabouts to avoid its rebutting the presumption of death, if the source from which it comes is so currupt and unreliable as to destroy its value.

The guiding principle of the decision seems to be that there must be some search for the missing person before the presumption of death from absence can arise, though no rule is laid down as to the extent to which the inquiries must be carried.

Executor—overpayment—right to recover.—That an executor who, under the mistaken belief that the estate is solvent, pays a claim in full, may, upon ascertaining the fact of its insolvency, recover the excess over the portion equitably due the claimant, is held in Woodruff v. H. B. Claflin Co. 198 N. Y. 470, 91 N. E. 1103. That this rule is supported by the weight of judicial authority is apparent from a review of the decisions, which is appended to the Woodruff Case in 28 L.R.A.(N.S.) 440.

Injunction—municipality—extinguishment of fire.—That a mandatory injunction will not be issued to compel a municipal corporation to extinguish a fire in a mine within its limits, which is on private property and was started without any wrongdoing on its part, is held in Cameron v. Carbondale, 227 Pa. 473, 76 Atl. 198, 28 L.R.A.(N.S.) 494.

No other case has been found involving the duty of a municipality to extinguish a mine fire within its corporate limits. The case of McCabe v. Watt, growing out of the same fire, in which the court refused to compel the mine owners to extinguish the fire, is reported in 24 L.R.A.(N.S.) 274.

Insurance—conspiracy to destroy property—effect.—The question whether a conspiracy to burn insured property, in which the owner takes part, unaccompanied by an overt act in furtherance thereof, would defeat recovery for a loss of the insured premises by a fire not the result of the conspiracy, seems to have been considered for the first time in Ampersand Hotel Co. v. Home Ins. Co. 198 N. Y. 495, 91 N. E. 1099, 28 L.R.A.(N.S.) 218, holding that a conspiracy, unaccompanied by an overt act, to burn insured property, in which the owner joins, does not, although it is in process of accomplishment at the time the property is destroyed by fire, avoid the policy, under provisions that the policy shall be void in case of any fraud touching any matter relating to the subject of the insurance, or if the hazard is increased by any means within the control or knowledge of the insured.

Insurance—appraisers—failure to agree—action—condition precedent.—The standard form of fire insurance policy in general

use in this country provides that where the insurer and insured are unable to agree as to the amount of loss, it shall be determined by arbitration, and that no action shall be maintained on the policy until an award has been made by the arbitrators; and the question often arises as to the effect of a failure to carry out this provision. This subject is exhaustively treated in the note to Graham v. German American Ins. Co. 15 L.R.A. (N.S.) 1055.

The necessity of arbitration as a condition precedent to an action on insurance policy came before the courts for consideration in the recent case of German-American Ins. Co. v. Jerrils, 82 Kan. 320, 108 Pac. 114, holding that under a fire insurance policy providing that, in the event of a disagreement as to the amount of the loss, each party shall appoint an appraiser, and the two appraisers shall select an umpire, and appraise the loss, and that no action shall be maintained on the policy until such appraisement has been made, the insured discharges his obligation in that respect when he appoints an appraiser in good faith; and where the two appraisers fail to agree upon an umpire, and the appraisement fails without the fault of the insured, he is not required to propose the selection of other appraisers, but may maintain an action upon the policy.

The recent authorities upon the question are included in the note which accompanies the report of this case in 28 L.R.A.(N.S.) 104.

Interest—unliquidated damages—delay in transportation of live stock.—Damages recovered in an action *ex delicto* against a carrier, for injuries to, and delay in the transportation of, live stock, are held in Fell v. Union P. R. Co. 32 Utah, 101, 88 Pac. 1003, to draw interest, at least from the time of delivery.

This case is accompanied in 28 L.R.A. (N.S.) 1, by an exhaustive note collating the decisions upon the right to interest on unliquidated damages.

Judgment—tax proceeding—nickname—validity.—The novel question of the validity of a judgment based upon the publication of process in which the defendant was designated not by his Christian name, but by a nickname, was considered in Ohlman v. Clarkson Sawmill Co. 222 Mo. 62, 120 S. W. 1155, 28 L.R.A. (N.S.) 432, holding that no valid judgment can be entered in a proceeding to enforce unpaid taxes against one whose Christian name is Michael, upon a constructive service of process against him by the name of Mike, where there is nothing to show that he ever answered to or tolerated such name.

Libel—words defamatory of clergymen.—Where derogatory words are uttered concerning clergymen, which tend to prove them unfit to continue their calling, the authorities are agreed that they are actionable in themselves, without proof of damage.

This rule was applied in the recent Minnesota case of Cole v. Millspaugh, 126 N. W. 626, annotated in 28 L.R.A. (N.S.) 152, holding that it is libelous *per se* to write of a clergyman, an applicant for a pulpit, "I would not have anything to do with him, or touch him with a 10-foot pole," if under the circumstances the words used would expose the person written of to hatred or contempt, or injury in his business or occupation.

License—vending machine—discrimination—validity.—The validity of a license tax on automatic vending machines seems to have been considered for the first time in the recent Washington case of Seattle v. Dencker, 108 Pac. 1086, 28 L.R.A. (N.S.) 446, holding that a municipal corporation cannot impose a license tax on automatic vending machines when no tax is placed upon merchants selling the same articles as are sold by the machine, without its aid, where no police supervision or regulation of the machine is necessary.

Limitation of actions—conveyance of mortgaged property—payment by mortgagor.—It is held in the recent Oregon case of Kaiser v. Idleman, 108 Pac. 193, that the running of the statute of limitations upon a mortgage debt will be arrested by a payment by the mortgagor before the

action is barred, although he has transferred the property to a stranger, where, under the statute, a payment continues and keeps alive the original promise.

According to the note which accompanies this case in 28 L.R.A.(N.S.) 169, it seems to be universally accepted that a new promise, part payment, or acknowledgment of the debt on the part of a mortgagor, before a conveyance by him of the property, or before the attachment of a lien, will have the effect of tolling the statute of limitations, not only as against himself, but also as against his grantee, or other person holding an interest in the property through him, whether such part payment or new promise is made before or after the debt is barred.

Mandamus — enforcement of law.—The weight of authority seems to hold that public officers cannot be compelled by mandamus to enforce the liquor laws, since this would involve the ordering of a course of action which is, to some extent, discretionary, and which it would be difficult, if not impossible, for the courts to enforce.

This is the view taken in People ex rel. Bartlett v. Busse, 238 Ill. 593, 87 N. E. 840, annotated in 28 L.R.A.(N.S.) 246, holding that mandamus will not lie to compel the mayor of a city to enforce the Sunday closing law against a saloon keeper.

Master and servant—fellow servants—domestic servant and employer's child.—The question whether a child of the employer is a fellow servant of an employee was presented to the courts, apparently for the first time, in Waxham v. Fink, 86 Neb. 180, 125 N. W. 145, 28 L.R.A. (N.S.) 367, holding that a woman of mature age who was employed as housekeeper and in general charge of the housework, and was injured by an accident caused by the negligence of the son of her employer, a boy of fourteen years, who was also performing ordinary household service, in the absence of his father, but pursuant to the general directions of his father to perform such service, was a fellow servant of the boy, and that she could not recover from her employer damages so sustained.

Master and servant—employment by month—loss of time through sickness—recovery.—That a servant employed by the month can recover no compensation for the time during which he was prevented from performing services by sickness is held in the recent Washington case of MacFarlane v. Allan-Pfeiffer Chemical Co. 109 Pac. 604, which is accompanied in 28 L.R.A. (N.S.) 314, by an exhaustive note presenting the decisions dealing with the right of a servant to compensation in case of incomplete performance of his contract caused by physical disability.

Master and servant—injury—notice—service by mail.—Service, by mail, of notice required by employers' liability acts, appears to be a question which, as yet, has had little attention from the courts.

In Hurley v. Olcott, 198 N. Y. 132, 91 N. E. 270, 28 L.R.A.(N.S.) 238, it is held that failure of the employer to receive the notice is immaterial where a statute providing for service of notice of injury for which the master is to be held liable states that it may be served by post, by letter addressed to the person on whom it is to be served.

Municipal corporation — nuisance — cattle yards— right to prohibit.—The question whether the power ordinarily vested in municipal corporations of declaring what shall constitute a nuisance, and abating the same, will authorize the municipality to prohibit stock yards within its limits, regardless of the condition in which they are kept, was considered apparently for the first time in the recent South Dakota case of Colton v. South Dakota Central Land Co. 126 N. W. 507, 28 L.R.A. (N.S.) 122, holding that a municipal corporation having authority to declare what shall constitute a nuisance, and abate the same, may prevent the maintenance of ordinary railway cattle yards in its residence district.

Negligence—unsafe premises—third rail.—An electric railway company main-

taining an unprotected third rail carrying a heavy current, on its right of way, at a point where the right of way is securely fenced against intruders, is held not liable in Riedel v. West Jersey & S. R. Co. 177 Fed. 374, for injury to a child who wanders through a gate maintained in the fence by an abutting property owner, and comes in contact with such rail, although there is nothing to distinguish the dangerous rail from the harmless ones.

The liability of an electric railway for injury to a trespasser or licensee from an exposed third rail, as appears by the note appended to this decision in 28 L.R.A. (N.S.) 98, seems to have received judicial consideration in but three earlier cases.

Physician—use of electricity—negligence.—The rule governing the liability for injuries resulting from the use of the X-ray is the same as in other actions for malpractice, and the criterion is whether such reasonable care and skill has been exercised as is usually given by physicians and surgeons in good standing in the locality.

In Frisk v. Cannon, 110 Minn. 438, 126 N. W. 67, annotated in 28 L.R.A. (N.S.) 262, it appeared that plaintiff was placed by one of defendant physicians on an insulated platform, a conical cap was put above and in front of her head, and electricity was caused to be discharged by a static machine through the cap upon plaintiff's head. Defendant left the room. No attendant was present. Plaintiff's head was seriously burned. It was held that actionable negligence on the part of defendant was shown.

Railroad — crossing — injury — negligence.—The rule as to the right of recovery for an injury received on a railroad crossing while attempting to rescue property seems to be that one is entitled to run some risk in attempting to save his property from damage, and that he may recover for any injury received in so doing, provided he has not recklessly exposed himself to danger.

This rule was extended in Campbell v. Chicago G. W. R. Co. 108 Minn. 104, 121 N. W. 429, annotated in 28 L.R.A. (N.S.) 346, to include a person who went upon the crossing to rescue property with whose presence on the track he had no original connection.

In that case plaintiff saw a horse and wagon without a driver approach the railroad tracks at a constantly used crossing of a busy city street. He took hold of the reins suspended from the top of the vehicle. Defendant's railroad train, while the engine whistle was being blown and the train was running at the rate of 35 miles an hour, came suddenly into view around a sharp curve some 200 feet away. The horse became frightened, plunged forward, and jerked plaintiff on the track. The oncoming train struck him, and produced the injuries for which the jury awarded damages. Its verdict is sustained, despite objection based on the absence of proof of defendant's negligence, and on plaintiff's contributory negligence.

Railroad—unsafe crossing—deviation—injury—liability.—The question of a railroad company's liability for an injury to a traveler while trying to cross its tracks at a place other than the regular crossing, because the latter is out of repair, was presented to the courts for adjudication, apparently for the first time, in the recent Washington case of Moore v. Great Northern R. Co. 107 Pac. 852, 28 L.R.A. (N.S.) 410, holding that a railroad company is not liable for injury to one who voluntarily turns aside from a crossing over the track, left unsafe by the company, and attempts to make the crossing over the unprotected rails, and is thrown from his wagon by the unevenness of the crossing place.

Slander — vilification — right to damages.—The recent Louisiana case of Carrick v. Joachim, 52 So. 173, annotated in 28 L.R.A.(N.S.) 85, holds that where one man (and he much the heavier of the two), without provocation, assaults another upon the street, and, in a voice which is heard half a square away, applies to him the vilest epithets in the English language, the injured party ought not to be denied such compensation for the wrong done him as money can afford.

There are not many cases in which the question of the application of gross and vile epithets which inveigh against a man's genealogy or which impute immorality to him personally, has been considered. What judicial utterances there are on the question incline to the view that there is no right of action for the use of epithets, however vile, unless it appears that there was an intention to make a charge against the plaintiff, which, if made in language in itself unobjectionable, would have been defamatory. Indeed, it has been said that one who utters contumelious epithets does so in a state of mental excitement which negatives any intention to make a defamatory charge.

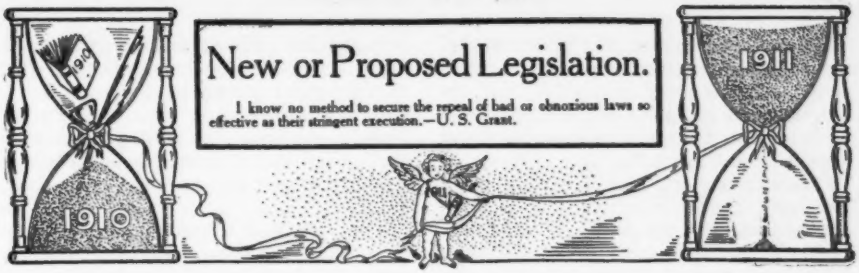
Surety—change of contract—liability.—The effect upon a bond conditioned for the fidelity of an employee or agent, of a change in the latter's field of operation or the nature of his duties, was considered in the recent Utah case of Daly v. Old, 99 Pac. 460, annotated in 28 L.R.A. (N.S.) 463, holding that a change of the state in which a solicitor of life insurance is to work, after the execution of a bond conditioned for the faithful performance of his duties, will not, although it enlarges his responsibilities, release the surety, where the bond provides that it shall not be annulled or revoked without the consent of the obligee, but shall remain in force, whether under the agent's existing appointment or any future one, and the agency contract provides that the agent shall have authority in the original state, and shall give a satisfactory bond which shall hold good "under this or any future agreement."

Unfair tradename of organization—protection.—Although the question has received little judicial discussion, the right of the members of an organization, or, more properly speaking, of the public, to protection against the use by others of a name to which the united efforts of such members have given a peculiar significance, seems to have been recognized wherever the question has arisen in such a form as definitely to require the predication of such right.

The recent Michigan case of Finney's Orchestra v. Finney's Famous Orchestra, 126 N. W. 198, annotated in 28 L.R.A.(N.S.) 458, holds in conformity with this view that a name like "Finney's Orchestra" may be protected against unfair competition by those whose efforts have made it valuable, although the one who originated the organization and gave it his name is dead.

Will—beneficiary as draftsman—undue influence.—It is held in Kirby v. Sellards, 82 Kan. 291, 108 Pac. 73, that the fact that a will is written by the daughter of the testator, who is named as the executrix, but is not otherwise favored over the other children, does not raise a presumption of undue influence.

This case is accompanied in 28 L.R.A. (N.S.) 270, by an exhaustive note discussing the numerous authorities treating of the nature, character, and force of the implication attributable to the circumstance that one who drafted or was otherwise active in the preparation and execution of a will receives a benefit thereunder, both where it stands alone and where it exists in conjunction with other circumstances, notably the existence of a confidential relation between the testator and such beneficiary; the circumstances which add force to such implication; its effect, if any, upon the burden of proof; the circumstances under which it becomes necessary to introduce evidence to repel it; and the amount and character of proof necessary to that end.



Child labor in Europe.—Repulsive conditions in child labor in continental Europe are described in a special report published in the latest issue of the bulletin of the United States Bureau of Labor, made public recently. The report, which covers more than four hundred pages of the bulletin, was made by Dr. C. W. A. Veditz, a professor of sociology in George Washington University, who made an investigation in Austria, Belgium, France, Germany, Switzerland, and Italy. He gathered his *data* from official records and sources of information.

Child labor in Belgium is not paid at all; children in Austria begin work before six years of age; child laborers in France are drilled to disappear through trapdoors at the approach of inspectors, and there is a general indifferent enforcement of the child labor laws. Employers find it more profitable to pay the nominal fines imposed, than to obey the regulations.

In Austria, one fourth of the child workers are employed in establishments that are inspected annually. The force is so inadequate that it would take fifty-nine years to visit once every establishment subject to the labor laws. The majority of the smaller concerns are never visited. Child labor in Austria is not regulated in workshops, in household industries, or in commercial establishments. Hence the factory laws, so far as they have reduced child labor at all, have simply driven it out of the factories into the homes of the workers, into small workshops, and into establishments lying outside the scope of the labor laws.

A recent official investigation disclosed the fact that about half of the children began work before they were eight years of age, while a very large number began before they were six years old. Their compensation varied all the way from food and certain articles of clothing to $14 a year for those in agricultural occupations. A large proportion received wages of from 50 cents to $1.50 a month. Those employed in saloons and bowling alleys usually averaged 4 cents an hour, plus free beer, sometimes left over by guests.

The Belgian child-labor law provides that ignorance of the law is a sufficient defense of proved violations. Many violations escape detection, the report says. The bulk of the establishments are visited only once a year. Only a fractional part of the cases of detected violations are brought to trial, and in these cases the fines imposed average about $1. Specific instances are quoted in which employers frankly declare it to be much cheaper to violate the law and pay the fine than to comply with it.

One fourth of the child laborers in Belgium under sixteen years of age either get no money wages at all, or receive less than 10 cents a day; more than one half of them receive between 10 and 29 cents a day, and less than one fifth receive 30 cents or more.

In France, the investigator says, the enactment of new labor laws has proceeded much more rapidly than provisions for their enforcement. If every establishment subject to the laws were to be inspected once a year, that would mean each inspector would have to visit 4,265 concerns. At the end of 1908 there were still 173,136 establishments subject to the law that had never been visited, even once, by an inspector. In fact, in 1908 alone, 383,873 establishments were not visited.

Although the French law provides that working children must be subjected to a

physical examination if the work they do is apt to prove injurious to their health or their physical development, the provision is admitted by the inspectors to be wholly ignored. Among the most frequent and most flagrant violators of the rules governing child labor are religious and charitable institutions, such as orphanages, says the report, in which the children usually get no wages for their labor, are worked overtime and under conditions violating not only the law, but the ordinary rules of hygiene, and in which limitable provision is frequently made for their education.

In France official age certificates are often forged or altered, and a traffic has sprung up, especially among the Italian children imported into France in droves for employment mainly in glass works, brickyards, and as chimney sweeps and bootblacks.

French court decisions have made it next to impossible to enforce the prohibition of child labor at night, according to the almost unanimous testimony of the inspectors. The law governing the employment of young children in theatrical performances is also a dead letter.

Germany's Industrial Code, regulating the employment of child laborers, was recognized as having not so much abolished child labor, as having forced it out of the factories into home industry. A small proportion of the employers found violating the law receive punishment. Although in 1908, for instance, 15,099 establishments illegally employed persons under sixteen years of age, and the total number of offenses was 20,817, only 1,597 persons were punished.

In Italy the whole institution of factory inspection is of so recent date, and as yet so poorly organized, that it may be said to be nonexistent throughout a large part of the Kingdom.

In Switzerland, whose factory law of 1877 was regarded as radical at the time of its enactment, conditions do not differ very essentially from those prevailing in Germany and in France. Regulation of labor in factories has unquestionably led, in many industries, to the development of home production as opposed to factory production.

The report as a whole leaves the impression that child-labor laws are exceedingly difficult of enforcement, and that the European public is too prone to regard legislation alone as a cure for alleged social evils. It is also claimed, in the report, that the devices employed to circumvent the law are much the same the world over.

The conclusion is that child-labor laws abroad are in many essential respects poorly enforced, and that the penalties imposed for violations are ridiculously small and of practically no deterrent value. The report gives data indicating that in most of those countries it would be a physical impossibility for the inspectors to do more than a fractional part of their work, or to do that part thoroughly, and that the courts are astoundingly lenient with offenders against labor laws.

Probation for Wayward Mothers.—Look a moment at a typical case, says the California Weekly. Here is a woman who has been married five or six years and has a daughter, say, four years old. The woman is fond of a gay life, she has moved to California from an eastern community and the absence of old acquaintances removes the restraints of old days. Her husband is away from home a good deal, sometimes in the evenings. She gets acquainted with fast people, takes a drink now and then, drifts into worse associations, gets caught at the unforgivable sin, and her husband gets a divorce. The chances are that the court will give her the child. The fast life now continues as a matter of course. The child is neglected or, even worse, is made to share in scenes that would disgust the coldest heart. The woman becomes an habitual drunkard, and, finally, the Society for the Prevention of Cruelty to Children hears of the case, and the woman is arrested.

Here is the practical solution of the problem offered by Miss Katherine Felton, of the Associated Charities:

Make the mother in the typical case described above an offender against the laws. Establish a system of probation for such offenders, and make the agent of the child-placing agency the probation officer in charge of the case. Require

the mother to report periodically to this probation officer, and warn her to mend her ways. Then present to her two alternatives—either she must earn the right to take back her child by decent living and productive industry, or have all legal claim upon the child removed by a final decree of the court. Give the woman a fair length of time—say one year—in which to stay on probation and prove her right to the child, or to prove finally and conclusively her incapacity to rear it properly.

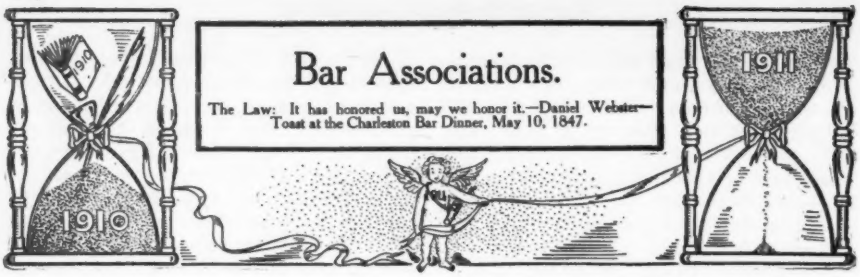
The effect of the proposed plan upon the child itself is salutary. In the first place, the child is at once and completely removed from the baneful influence of its mother. It can be boarded out under conditions that insure its proper care until the mother's probationary term expires. If the mother profits by the probation and the child is restored to her, it is restored to a woman who has begun, at least, to live right, and who is likely to continue to live so because she has had a chastening experience of the power of the law and the intention of the courts to compel her to live properly while the child is in her hands.

If the probationary term be a failure, the child is finally and forever removed from its mother's influence.

School Attendance.—By the review of recent legislation relating to public education, prepared by Professor Edward C. Elliott, of the University of Wisconsin, for the New York State Education Department Bulletin, it appears that the last biennial instalment of the long-continued story of compulsory education, child labor, and juvenile delinquency legislation, contains numerous paragraphs that justify encouragement in the belief that, at no distant day, all of the members of the American Federal commonwealth will succeed in guarantying to their children a minimum of education, a just protection from an overload of labor, and a safeguard from the influences of nonsocial agencies.

Generally speaking, the tendencies in the Northern and Western states as regards school attendance have been to widen the age limitations so as to include the period eight to sixteen, to increase the length of the period of annual school attendance, to require certain degrees of educational advancement as an essential condition for exemption from attendance, to give to school officials far greater authority in the determination of what constitutes satisfactory compliance with the law, and to bring defective children (deaf, dumb, blind, and feeble-minded) within the scope of operation of the compulsory attendance requirements. The more important of these new attendance regulations are: Arizona (1907, chap. 67), Idaho (1907, p. 248), Illinois (1907, p. 520), Kansas (1907, chap. 317), Kentucky (1908, chap. 68), Michigan (1907, chaps. 48, 74), Minnesota (1907, chap. 407), Nebraska (1907, chap. 131), New Jersey (1908, chap. 231), New York (1907, chaps. 103, 585), North Dakota (1907, chap. 98), Oregon (1907 chap. 79), Pennsylvania (1907, chaps. 237, 241), South Dakota (1907, chap. 137), Vermont (1906, chaps. 52, 59), Washington (1907, chap. 240), Wisconsin (1907, chaps. 108, 128, 446) and Wyoming (1907 chap. 93). The child labor law for the District of Columbia, United States (1908, chap. 209, May 28) may be considered as a long-delayed step of progress.

The results in the Southern states were largely in the direction of securing initial legal recognition of the principle of compulsory school attendance. Delaware (1907, chap. 121), Missouri (1907, p. 428), North Carolina (1907, chap. 894), Tennessee (1907, chaps. 603, 604), Oklahoma (1908, chap. 34, art. I), and Virginia (1908, chap. 364) passed coercive measures of varying potential effectiveness.



Bar Associations.

The Law: It has honored us, may we honor it.—Daniel Webster—Toast at the Charleston Bar Dinner, May 10, 1847.

State Bar Associations Meetings.

The annual meeting of the Connecticut Bar Association will be held at Bridgeport during the coming month of January, 1911.

The next meeting of the South Dakota Bar Association will be held at Pierre about January 15, 1911.

It is announced that the next meeting of the Kansas Bar Association will be held at Topeka on January 11 and 12.

The Maine Bar Association will meet in annual session at Augusta, on January 11.

The next meeting of the New York Bar Association will be held at Syracuse on January 19 and 20. United States Senator Elihu Root will preside. The principal address will be by Attorney General Wickersham.

Kansas Bar Association.

D. A. Valentine, secretary of the Kansas State Bar Association, has announced that the yearly meeting will be held in Topeka on January 11 and 12, 1911. He called attention to the fact, in the notice, that all Kansas lawyers in good standing can become members of the association by sending to the secretary for the necessary information and application blanks. This meeting is considered an important one.

The arranged program follows:

Annual Address: Honorable Burr W. Jones, Madison, Wisconsin. Subject: The Maladministration of Justice in Homicide Cases. Mr. Jones is the author of Jones on Evidence, and other law books of note. He served several terms in Congress, is a fine lawyer, and an instructor in the University of Wisconsin.

President's Address: Honorable C. A. Smart, Ottawa, Kansas. Subject: The Establishment of Justice.

The following addresses are also announced: The Unwritten Law, by Honorable A. M. Harvey, Topeka, Kansas; The Trial Judge, Honorable C. E. Branine, Hutchinson, Kansas; A Square Deal in the Law and the Courts, Honorable C. E. Benton, Ft. Scott, Kansas; Right of Trial by Jury, Honorable A. E. Crane, Holton, Kansas; Constructive Service, Honorable Jay T. Boots, Coldwater, Kansas; Psychology as Related to Testimony, Professor Wm. A. McKeever, Manhattan, Kansas.

There will also be an address by the State University law student writing the most meritorious paper in the competition for this honor. Subject: The Moral Duty to Aid Others as a Basis of Civil and Criminal Liability.

Juvenile Court Procedure.

Juvenile court work, its present influence, and future potentialities, were discussed at length at the November monthly banquet of the Lancaster County (Nebraska) Bar Association. The paper of the evening was read by Judge Lincoln Frost, who has for the past three years presided over the juvenile court of Lancaster county, his theme being "Procedure in Juvenile Court."

Judge Frost said in part: Not many years ago the law makers of the several states of this country saw that they were making criminals, instead of reforming their youths. They consequently passed such legislation as sent the youthful cul-

prits to industrial schools, but most of such laws still treated the child as a criminal, while mercifully allowing more latitude in dealing with him after trial. The mistake was in still treating him as capable of the commission of a crime, instead of looking upon the culpable act as a childish mistake.

Within the last eleven years, laws have been adopted in most of the states of our country, which have more or less rectified this mistaken way of dealing with the children. I refer to the juvenile court laws. The common law considers the child of seven as incapable of committing a criminal act. Long ago, many of the state statutes raised that age to ten years. If the common law could fix that age at seven, and the statute law at ten, is there any logical reason why the legislatures in their wisdom may not raise that age to sixteen or seventeen years? That is exactly what the juvenile court laws of most of the states have done. Impliedly, our own statute has fixed that age at sixteen years. Under the fixed age, the juvenile court laws of their respective states, take him out of the criminal class, and deal with him at the most as a wayward child. That is, the state steps in as the overparent, if you will permit the expression, and supersedes or supplants the natural parents, as the particular case seems to require.

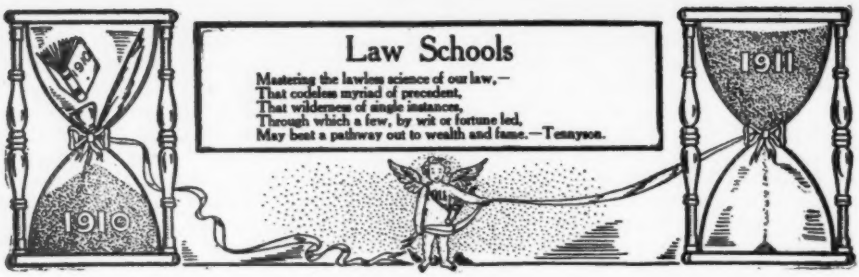
These laws are not radical innovations, but are based upon long-established equitable principles which are simply applied under the new procedure. Under the old chancery practice the sovereignty, as the *parens patriæ*, was the paramount power where the property or the person of a minor was involved.

In dealing with children under these new methods it has been necessary to adopt entirely different court procedure. A law which recognizes the state's care as parental could not be properly administered by a judge clothed with a gown and seated upon a lofty throne. In other words, it is absolutely indispensable to the proper handling of children under these new laws that the judge assume a friendly and familiar attitude toward the child before him, something the same as the child had been accustomed to, when talked to by his parents in his own home. Hence the juvenile court judges generally have come down from their bench, and have occupied a chair at a table with the child and his parents.

The whole procedure is modeled after the chancery, rather than the criminal, methods. Ordinarily before a child's case is brought into the juvenile court, a probation officer investigates to see whether the facts require such a course. If the probation officer concludes that they do, then a petition is filed, by "any reputable person being a resident of the county." In that petition you will not find any crime charged. It is simply alleged that the child is "dependent and neglected," or is "delinquent." There are no criminal acts there recorded to blacken the child's future. The child, however, is not brought before the court by a warrant. His parents or guardian are summoned, to appear with their child or ward as the case may be. If they fail, without good cause, to do so, those parents, and not the child, are to be treated as in contempt of court.

As has been already indicated, after the child is in court, the proceedings are most informal. There is no arraignment or plea. No oath is administered to him. After the probation officer has stated in general the facts in the case, the child is asked to tell the judge all about his trouble.

Under the new procedure the greatest latitude is allowed in disposing of the case of a child. The child may be allowed to remain in the home of his parent, with or without probation with some third person. And that is the disposition made of perhaps nine cases out of ten.



Boston University Law School.

At a large gathering of the alumni of the Boston University Law School there was a long discussion of plans for the movement which is designed to bring the lawyers and undergraduates into closer touch with each other, and to form new standards of legal ethics.

Regular meetings will be held each month. A justice of the supreme or superior court will be invited to discuss prominent legal questions, and also to take an active part in the formation of a code of legal standards and ethics and professional conduct. There will be two smokers given for the benefit of the law students, and subjects of special interest to them will be treated by the honored members of the profession.

This movement on the part of the association is receiving the commendation of all the attorneys who have been interviewed. It is the first alumni association of any law school which has actively participated in the practical concerns of the students in their respective schools.

Georgetown University.

The Morris Society of Georgetown University has been organized by several members of the 1912 law class of the university. The society is named after Judge Morris, founder of the Georgetown Law College.

The purpose of the society is to encourage more diligent study, from day to day, in the various subjects in the law course, and to assist one another in the solution of doubtful and difficult cases. Meetings are to be held after lectures, twice a week, or as often as desired.

University of Maryland.

By an overwhelming majority of the vote cast, the honor system has been adopted at a meeting of the Law Department students, University of Maryland.

Under the terms of the resolution adopted, the students solemnly pledged themselves not to cheat, nor to assist others to cheat, on any examination by any means whatsoever. Each student binds himself to report anyone he apprehends cheating at an examination to the executive committee of his class. The executive committee will promptly secure all the evidence of such cheating obtainable, and if it deem such evidence sufficient it shall call a meeting of the class and lay the evidence before it. The accused, if he desire, shall be heard in his own defense, or appoint someone to appear for him.

The entire class, sitting as a jury, with the president presiding and acting as foreman, the accused being excluded from this sitting, shall determine the guilt or innocence of the party accused. If a majority of the class find the accused "not guilty" the case shall close. If a majority find the accused "guilty" of cheating, the accused shall be ordered by the executive committee to sever his connection with the Law School. If he refuses to do this he shall be reported to the dean of the Law School by the executive committee, and his expulsion recommended.

University of Michigan.

A "National Michigan Dinner" in honor of William R. Day, Justice of the United States Supreme Court, four senators, and twenty-one members of Con-

gress, all of whom are alumni of the University of Michigan, is being arranged by the New York alumni. The dinner will be given in the banquet hall of the Hotel Astor, January 14, 1911, and it is planned to have present 1,000 Michigan alumni from all parts of the country.

Tulane University

One new instructor has been added to the ranks of the faculty of the Law Department of Tulane University this fall. This is Professor Elliott Judd Northrup, who will take charge of the common-law courses, relating to real and personal property, in which subjects he specializes.

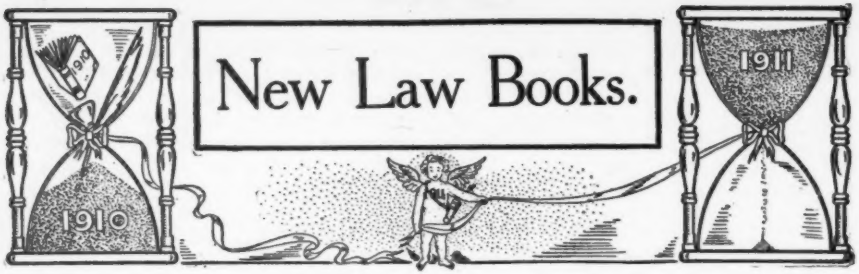
Professor Northrup is a graduate of Amherst College, and received his B. L. degree at Cornell University. He is not only a theorist, but has practised his profession for seven years in Syracuse, New York, finally giving the work up to teach law at the University of Illinois, where he was a comember on the faculty with Secretary D. O. McGovney of the Tulane Law School.

The legal encyclopedias contain a number of contributions from the pen of Professor Northrup, and he is well known among barristers throughout the country. While most of his essays have been confined to the law of property, he has also taught, and is familiar with, other branches of the common law. He comes to Tulane highly recommended as a legal instructor, and will devote his time exclusively to the work of the Law School.

Law Students' "Eating Term."

In the heart of London, between busy Fleet street and the broad embankment, there is carried out a custom that has been in vogue for several centuries. Every night between 5 and 5:30 o'clock one of the porters of the Temple, the University of Law, goes round the dull old quadrangles blowing an old-fashioned, silver-mounted horn to call the students to dinner. In each law term there is a period called the "eating term," during which the barristers-to-be are compelled to attend at least six dinners in the Temple Hall.

Temple Hall was built in 1572 and has a magnificent oak roof, richly carved, and a fine oak screen. On the dais at the end of the hall, Shakespeare is believed to have acted in "Twelfth Night" early in 1602. The long table at which the students dine was the gift of Queen Elizabeth to the benchers, and was made from a single oak in Windsor park. There is also a small dining table constructed from the timbers of Drake's ship, The Golden Hind. At present about sixty students dine here nightly. Not only has this miniature university town memories of the old crusading times, but its flavor is mingled with associations of the literary history of the eighteenth century. "It is the most elegant spot in the metropolis," wrote Charles Lamb, who was born in Crown Office row. "What a cheerful liberal look hath the portion of it which, from three sides, overlooks the greater garden—that goodly pile 'of building strong, albeit of proper height,' confronting, with massy contrast, the lighter, older, more fantastically shrouded one, named Harcourt, with the cheerful Crown Office row (place of my kindly engendrure) right opposite the stately stream which washes the garden foot with her yet scarcely trade-polluted waters. . . . A man would give something to have been born in such places." —Louisville Times.



"The High Court of Parliament and its Supremacy."—By Professor Charles Howard McIlwain (New Haven: Yale University Press.) $2.50 net.

In this volume, its learned author deals with Parliament as a court, the relations of "judiciary" and "legislature," and the political history of Parliamentary supremacy. He attempts to account on historical grounds for the present-day extension of judicial action in America, which is attracting such wide-spread attention and has been discussed in so many recent articles. He concludes that the former activity of the judges of Tudor England under a government of fused powers is a very dangerous precedent, if it is to be followed slavishly, and applied without discrimination to a system in which there is a balance between divided powers, where an encroachment of one department upon another may endanger the balance and threaten the whole.

This work is a valuable addition to the story of the beginnings of our law, and its interest is enhanced by the fact that the legal ideas which it traces historically have so important a bearing upon controverted questions of to-day.

"Remedies by Selected Cases (Annotated)."—By Samuel F. Mordecai and Atwell C. McIntosh. $6.00.

The aim of this work is to present, by a series of leading cases chosen from the decisions of the higher tribunals of England and America, the law of remedies applicable where personal rights or rights of property have been invaded. Commencing with remedies without judicial proceedings, the subject is elaborated by a treatment in successive chapters of remedies concerning real property, and for injuries to personal property, personal security, personal liberty, and relative rights. This is followed by a consideration of injuries to rights growing out of contract, extraordinary and ancillary remedies and those in special cases, together with chapters on jurisdiction, process, and parties.

The annotation contains copious references to the Century Digest, Decennial Digest and its continuations, and to the L.R.A.

Mr. Mordecai is the dean of the Law School of Trinity College (North Carolina) and author of Mordecai's Law Lectures. Mr. McIntosh is a professor in that institution and author of Cases on the Law of Contracts.

"The History of the Telephone."—By Herbert N. Casson. (A. C. McClurg & Co., Chicago). $1.50 net.

The telephone, which is now taken for granted as a common-place accessory of everyday life, was, hardly more than a century ago, an unheard of thing, and had the visionary who dreamed of its first crude form, told his dream, its impossibility would have been quickly pointed out to him. The wonderful romance which Mr. Herbert N. Casson has unfolded is interesting from more than one point of view, but perhaps the most fascinating aspect of the story is that which shows the will power of Alexander Graham Bell and his associates in overcoming apparent impossibilities by invention after invention, each necessary to obviate some unforeseen difficulty. Fate had the most to do with the survival of the telephone, although it seemed bent upon crushing it more than once. For instance, Fate made Bell an expert in vocal acoustics and then luckily made

him rather ignorant of electricity. "Had I known more about electricity, and less about sound," he said, "I would never have invented the telephone." He would have seen impossibilities, in that case, which were real then, and which only subsequent invention enabled him and his coworkers to overcome.

"When Bell stood in a dingy workshop in Boston," says the author, "and heard the clang of a clock spring come over an electric wire, who could have foreseen the massive structure of the Bell System built up by half the telephones of the world, and by the investment of more capital than has gone to the making of any other industrial association? Who could have foreseen what the telephone bells have done to ring out the old ways and to ring in the new?"

The story unfolded is a remarkable one. At the present day the telephone has become as much an integral part of our daily lives as the clock and the watch. In the city no family is without one, no business house can do a day's business without its aid, every train that moves, every ship that leaves harbor, every event on track or turf, depend upon it, doctor and patient and lawyer and client, are brought together by it. The history of this marvelous invention is one, therefore, that concerns everybody.

"Corporations in Missouri."—By John H. Sears. 1 vol. $5.

"Missouri Corporation Laws Annotated."—By Isaac H. Lionberger. 1 vol. $4.50.

"Interstate Commerce and the Sherman Anti-Trust Law."—By Dewitt C. Moore. 1 vol. Buckram, $7.50.

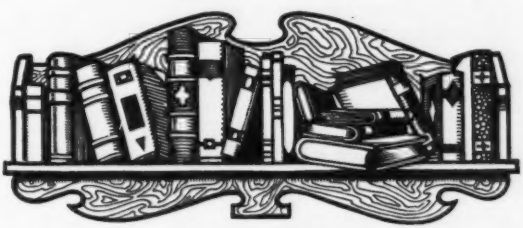
"Code of Practice of Louisiana."—With annotations by Henry L. Garland. 3d ed. $15.

"Minnesota Digest."—By Mark B. Dunnell. Covering Minnesota Reports, 1-109 (110 and 111 in part). 3 vols. Buckram, $31.50.

"Cross Reference Annual Series."—Vols. 3 and 4. Being a continuation, or supplemental digest, to Pepper & Lewis's Digest of Pennsylvania Decisions, by George Wharton Pepper, William Draper Lewis, and Samuel Dreher Matlack, $10 per vol.

"Reports of the Tennessee Court of Civil Appeals."—Only leading cases to be published, embracing cases affirmed by the supreme court and leading cases decided by the court of civil appeals, and not removed to the supreme court. Probably two volumes to be published annually. $4.25 per vol.

White's "Texas Penal Code."—Enlarged and revised by Walter Willie. 2 vols. Buckram, $12.



Recent Legal Articles in Law Journals and Reviews

Action.

"What are 'Personal Actions?' "—30 Canadian Law Times, 862.

Aeroplanes.

"Liability for Accidents in Aerial Navigation."—9 Michigan Law Review, 20.

Amusements.

"Duty of Proprietor of Place of Amusement to Provide for Safety of Patrons."—43 Chicago Legal News, 112.

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"How to Assist an Appellate Court to Arrive at Your View of a Case."—43 Chicago Legal News, 111.

"The Test of What is Technical Error or Defect, or Exceptions Which do not Affect the Substantial Rights of the Appellant in Criminal Cases."—17 Kansas Lawyer, 50.

"The Practice in Reversing Judgments N. O. V. and in Amending the Pleadings in Pennsylvania."—59 University of Pennsylvania Law Review, 77.

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"The North Atlantic Fisheries Arbitration—Complete Report of the Award." —30 Canadian Law Times, 879.

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"Liability of Trustees under Deeds of Assignment."—32 Australian Law Times, 26.

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"To What Extent are Money, Jewels, Bonds, or Other Property, Carried on or Attached to the Person of the Holder, Subject to Replevin, Attachment, or Other Means of Recovery or Execution at Law or in Equity."—43 Chicago Legal News, 118, 128.

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"The Acquisition and Retention of a Clientage."—43 Chicago Legal News, 124.

"American Legal Orators and Oratory."—22 Green Bag, 625.

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"Effect of a Change of a Judicial Decision as to the Constitutionality of a Statute."—59 University of Pennsylvania Law Review, 92.

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"Treatment of Offenders."—32 Australian Law Times, 25.

"The Classification of Criminals."—1 Journal of Criminal Law and Criminology, 536.

"The International Congress of Criminal Anthropology: A Review."—1 Journal of Criminal Law and Criminology, 578.

"Relation of the Alien to the Administration of the Civil and Criminal Law."—1 Journal of Criminal Law and Criminology, 563.

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"The Problem of Marriage and Divorce."—36 Law Magazine and Review, 1.

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"Responsibility of Landlord for Personal Injuries in Nonobservance of Covenant to Repair."—71 Central Law Journal, 373.

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"A Recent History of English Law."—9 Michigan Law Review, 1.

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"The Mining Law of Ontario."—30 Canadian Law Times, 853.

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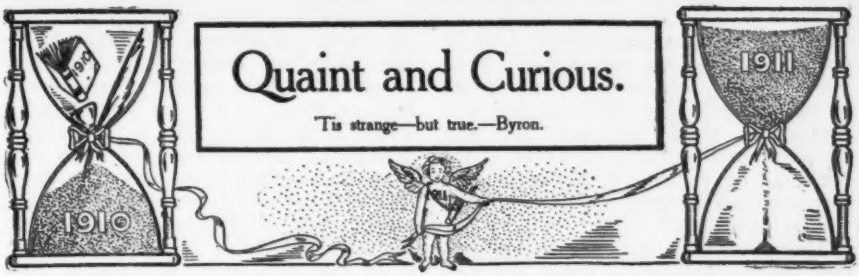
"The Importance of the Last Will and Testament."—17 Case and Comment, 341.



Quaint and Curious.

'Tis strange—but true.—Byron.

Amicus Curiæ.—Recently in Denver certain prominent merchants were greatly annoyed by the profanity of boys who congregated in a certain alley of an evening newspaper. Much complaint was also made about the petty gambling and other offenses of these boys, most of them newsboys. A number of individual boys, charged with such offenses, have been brought into the juvenile court. In every case they have reformed their habits to the entire satisfaction of the officers of the court. A friend of Judge Lindsey's told him that he had overheard one of these street boys deliver himself of the following to a new boy in court: "Now, look-a-here, John, if you knows what is good fur you, you'll stay by de judge. He's square, he is, wid de kids, and de kids has got to be square wid him and de first kid dat goes back on him is going to git smashed, see?"

Enjoining the Policeman.—"Once," says Judge Ben B. Lindsey, "in the midst of an important lawsuit, little Maurice, who had been considered rather a hopeless rascal, poked his head in the court room and was promptly "shooed" out by the bailiff. We were in the midst of an important trial, involving the construction of a law upon which depended the disposition of a million dollars' worth of property. I told the bailiff to let that boy come in, he was one of my friends. He came up to the bench, while I suspended the trial for three minutes. I said, 'Maurice, what can I do for you?' He said, 'Well, judge, it's dis way; I's been sellin' papers down by the Mining Exchange corner for a year and I's always hopped on the cars when I feeled like it, and now dey's got a new guy down there for a cop; he's one of dese fly bulls dat tinks he owns de town and won't let me git on de cars, and I's been losing 50 cents a day for a week.' 'Well,' I said, 'Maurice, what can I do about it?' He read the papers as well as sold them, and he promptly replied, 'Well, what I want you to do is to give me one of these here injunctions against this cop.' Maurice got the injunction in the shape of a kindly note to the policeman, stating that he was a ward of the court, and it was our special desire that he be allowed to 'hop' the cars all he pleased. The next report day Maurice came up beaming. 'Well,' said I, 'Maurice, how did the injunction work?' 'Oh, it worked fine,' he replied. 'He liked to drop dead when he read it. He's trying to be my friend now. He tinks I've got a pull wid de court.' Maurice to-day, after two years, is a splendid boy.'"

An Official Heart-to-Heart Talk.—If the example set by a Minneapolis policeman is to be followed in all the cities of the country, the police civil-service examinations must hereafter embrace the subjects of rhetoric, elocution, and a course in the fundamentals of good citizenship. It all came about this way. People passing by a certain schoolhouse had been snowballed, slides had been constructed to the peril of pedestrians, and in various and sundry ways the bigger boys and some of the littler ones had made their teacher realize that youth is a period of high spirits. Once or twice she had called up the police station, and an officer speedily appeared and issued a warning to the youthful offenders, but as soon as his blue coat vanished around the corner the fun began again.

When next summoned, an inspiration struck the officer and he suggested a good-citizenship meeting. The children gathered in the big hall and the police-

man acted as presiding officer. One by one he reviewed the indulgences of the last few days, in each case pointing out to the children why this and that was contrary to good citizenship, and why the police could not and, moreover, would not stand for it, and why in the name of patriotism the children must face around and do differently.

The officer says he hopes the children now see the necessity of a new order of things. It is said to be the first time in the history of the local public schools that a uniformed policeman has come in and given the children a heart-to-heart talk.

Admired Horses Too Much.—Possibly the youngest horse thief ever placed on trial was found guilty in a Suffolk, Virginia, court a short time ago. The prisoner was a lad but nine years old, and the charge made against him was his second offense. Owing to his youth, there was no prosecution for the first horse stolen, but when he disappeared a second time with a valuable animal which did not belong to him, he was pursued and captured by a posse after a chase of several miles. The boy, who had to stand in a chair to look over the edge of the judge's desk when his plea was made, said he was hired to steal the horse, but failed to identify the man whom he accused. He was sent to the state reformatory for an indefinite period.

"The City of Boys."—Humaniculture is the new science. Have you heard of it? It is being taught by Judge Willis Brown, of Utah, lecturer, writer, and humanitarian. The science of humaniculture is the art of reclaiming boys and girls, who, for misdemeanors and petty crimes, have been brought into criminal court and classed with hardened criminals.

Judge Brown's greatest achievement in the humaniculture line, says the Picayune, was the founding of "Boy City," or Boyville, at Charlevoix, Michigan. This city of boys is laid out on the same broad plan that governs any progressive city of grown-ups, the boys electing their own mayor, town council, etc., providing funds for playgrounds and athletic development, and everything pertaining to the moral and physical upbuilding of the boy. The boys study their own political situation far more carefully than do most citizens theirs, and every boy casts his ballot as he thinks best, which cannot always be said of the men who look after the welfare of the people at large. The idea of the City of Boys is to make manly men out of material more or less below par.

At the dedication of Boyville some time ago Governor Harmon, of Ohio, addressed the citizens of the new town and spoke of the movement in the heartiest terms. With him were many notables, and every one was intensely enthusiastic over the new project. In Boyville the laws are all made by the boys, enforced by them, and lived up to by them. It is an institution unique beyond anything ever before organized, and, best of all, it is proving a wonderful success. Judge Andrew H. Wilson, of the Juvenile Court of New Orleans, together with nearly every other juvenile court judge in the United States, have given the movement their hearty indorsement, and not a few more material encouragement.

Reformation by Dentistry.—Ten dollars' worth of dentistry supplied by the Children's Day Association has reformed a delinquent Chicago urchin into an honest, industrious boy. A $5 gold piece received in Chicago yesterday proves the transformation. Joseph Bejlovec, sixteen years old, was, until a short time ago, a delinquent youth, and spent most of his time dodging the truant officer, and the rest in mischief. He was arrested and taken before the juvenile court on March 17. There he was examined, and his teeth found to be in bad condition. The court nurses told the agent of the Children's Day Association. The association is devoted to relieving emergency cases that appear before the court, and the agent was interested immediately. She gave $10 to be used in fixing Bejlovec's teeth. As soon as this was done the judge told the boy he would not punish him, but would send him to a farm at Scherville, Indiana, where he could work, and, if willing to do so, he could save up enough money to pay back the $10. The boy went to

the farm. Later a letter was received at the offices of the Children's Day Association in the Woman's Temple. When it was opened a $5 gold piece rolled out. It was from Bejlovec.

A Wise Magistrate.—There is, says the Rochester Herald, a magistrate down in Philadelphia who is long on horse sense, even though he may be open to the charge that he is short on law. This wise official, whose name is Scott, had a boy before him on a charge of stealing a 5-cent pack of playing cards. Magistrate Scott inquired of the prosecuting witness if he thought it right to put the brand of a criminal on a boy for so small a sum as five cents. The reply was that a boy who would steal so trifling an article would steal something more valuable, if opportunity offered.

That appears to have aroused the indignation of the magistrate, a man with a good memory, we judge, who inquired: "Then how was it that your firm was willing to drop the charges against a clerk who was before me some time ago for embezzling several thousands of dollars, when that person promised to repay the money? If it is the money you want, I will order the boy to pay you 5 cents, and discharge him, too."

We learn from the Philadelphia Record's account of the incident that the boy proffered the nickel, which the magistrate accepted, and discharged him from custody, thus closing the incident.

Whether lawful or not, Magistrate Scott's act was one which may be commended to others who are careless about affixing the brand of criminality upon the young.

An Extraordinary Case.—A young attorney not noted for his brilliancy recently appeared in court to ask for an extra allowance in an action which he was so fortunate as to have been retained in. The court not discovering anything at all unusual, complicated, or extraordinary about the litigation, inquired of the young man: "What is there about this case that to you seems extraordinary?"

"That I got it," blandly and innocently replied the youthful aspirant for fees.

The Maid and Mephistopheles.—A judge in one of our middle west states advertised for a stenographer with experience in legal work. A number of applicants called at his office for the purpose of making application for the position. Each applicant was given a trial to test her speed, accuracy, etc. Among the applicants was a young lady whose anxiety to make a good showing evidently unnerved her. The judge dictated to her a few sentences in legal language, one of which was: "That would give him time to complete the devastation of the assets." This sentence as transcribed by the young lady on the typewriter read as follows: "That would give him time to complete the devil's station with a hatchet." Although much amused at her ludicrous blunder, the judge permitted her to go away without telling her of her mistake.

Attached the Banquet.—There are many interesting anecdotes, says the Chicago Tribune, told of judges and lawyers of the Chicago bench and bar. For instance, there is the story of the lord chief justice's dinner. Chief Justice Coleridge, of England, was in Chicago and was entertained at a banquet. It so happened, however, that the man who was giving the feast had some outstanding debts that had previously proved uncollectable. A young lawyer, not invited to the banquet, held one of these claims for collection, and he evolved the idea of attaching the banquet.

When the line was formed for the march to the banquet hall, it was suddenly discovered that a deputy sheriff was in charge of the food. In vain the host stormed, and declared the dinner could not be attached for any claim against him, as he had not yet paid for it, and consequently it was not his property.

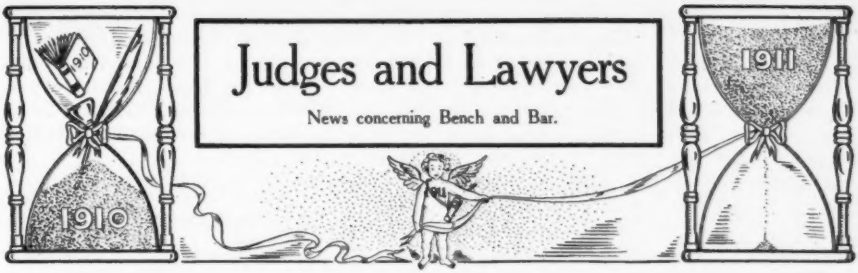
The young lawyer said they could settle that question in court in the morning. Meanwhile it was immaterial to him whether the lord chief justice of England had anything to eat or not. The result was that the host had to borrow sufficient money from some of his guests to satisfy the claim.

Our Jean Valjeans

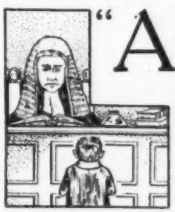
IN an address before the National Conference of Charities and Corrections, Judge Ben B. Lindsey said: One trouble is that we do not think. Victor Hugo did not suffer from this shortcoming to which we are all more or less victims. Nearly one hundred years ago a Paris newspaper contained an item (as far as the principle is involved), seen in our city newspapers almost any day. A boy had been arrested, tried, and incarcerated for stealing a loaf of bread. How many thousands of readers glanced over that item without another thought. Yet it was the suggestion to one who did think, for a story of life that thrilled the heart of the world. It is all right to sympathize with Jean Valjean. And yet no code of ethics or morals will justify, or ought to justify, what he did.

Our revulsion at his punishment is what causes us, in our profound pity and sympathy, even to justify his act. It is, inherently, a mistake to ever justify the unlawful satisfaction of any desire. We may very properly even excuse and sympathize with an unfortunate. This is entirely different from justification. When you try to justify an unlawful act you are treading on dangerous ground, and while apparently proper in an individual case it would be sowing the seeds from which in the end we should reap the fruits of bitterness. The trouble in Jean Valjean's case was that justice was not done. It is as natural for a boy or girl to want joy and fun as it is to be hungry. It is just as important to satisfy one as the other. If either is satisfied unlawfully, the act must be corrected.

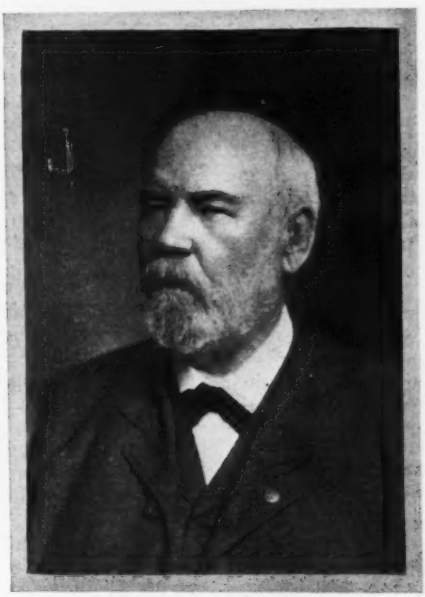
There should have been justice to the boy who stole. There should have been justice to the man who, in the sweat of his brow, and by his own labor, had produced that loaf of bread. Suppose he had forty loaves as the result of a day's work, and forty Jean Valjeans had appeared upon the scene. He may have had hungry children of his own to feed. The judge was no better or worse than the people or the system under which he lived and acted. The rights and duties of each were not adjusted to each other. There was neither harmony nor justice. Jean Valjean should have been corrected, but corrected with the love and tenderness of our Saviour, as He would have corrected him. Would He have told Jean it was right to steal that bread? No. The Master would have said: "Thou shalt not steal." He would have forgiven him. He would have assisted him, so that he could accomplish lawfully what he had done unlawfully. That is what the juvenile court would do.



Some Prominent Juvenile Court Judges and Their Work.



"A SQUARE deal for children,"—this might well be the motto inscribed above the door of the Marion county juvenile court, where sits Judge George W. Stubbs looking ever to the welfare of the city's unfortunate children. In his report to Governor Marshall, Judge Stubbs said: "The law provides for the appointment of two probation officers who are paid officers of the court. Their duty is to make investigation in the case of every child against whom a charge has been filed. This must be done and a report in writing made to the court before the case is tried. This report covers the character, reputation, general conduct, habits, associations, and school record of the child, and the kind of home and the character and habits of its parents. These investigating officers are instructed to find out every good thing that can be said in the child's favor. At the trial of the child the probation officer must appear in its behalf, thus securing to it the presence of a friend at court whose duty it is to see that all the evidence in the child's favor that can be produced is brought out and made plain to the court."



HON. GEORGE W. STUBBS,
Judge of Juvenile Court of Indianapolis.

"In addition to the 5,875 cases disposed of by formal action, many hundreds of persons, both men and women, have been brought into court upon notice against whom the court declined to permit charges to be filed. Such cases were usually of a domestic character, and for the most part were the outgrowth of quarrels between the father and mother, often the result of an infirmity of temper. A plain and vigorous talk to such parents, in which they were shown what the results of their conduct might be upon the lives of their children, generally resulted in reuniting the family."

"In summing up the seven years' work of the court it may be said that hundreds of boys properly termed 'bad boys,' who were brought into the court during the first three or four years of its existence, are now young men, doing

for themselves and making their way in the world. Many are holding good positions where they have the confidence and respect of their employers, and have a bright future before them. These boys were all poor boys and nearly all of them came from the poorest homes. Dealing with these boys has demonstrated that poverty is no drawback to a boy, providing his pride can be awakened and his ambition stimulated. If the boy has a normal mind, and a job can be found for him that he likes,—if the manliness that exists in almost every boy can be aroused to the serious and important things in life,—he can in nearly every case be given a good start toward success and prosperity, no matter how poor he may be, if his parents have any sense whatever of their responsibility toward him."

The court has gained a reputation among similar courts, that is surprising. While not without honor at home its fame has gone abroad and among students of, and experts in, juvenile work it is widely known, and has a great reputation. Many visitors come each year. A year or two ago a lady representative of the Howard association of England, a noted prison reform organization, visited Indianapolis and attended the full sessions of the court every day for seven weeks, and later came back for ten days more. In her formal report she advised that the Indianapolis system be recommended by the International Prison Association. Another visitor, Judge Habled Solomon, of Sweden, sat daily for eight weeks with Judge Stubbs, and on his return home published a book about the juvenile courts of the United States, and out of 258 pages 148 were devoted to the Marion county court.

Los Angeles Active Juvenile Court Justice.

Curtis D. Wilbur, judge of the juvenile court of Los Angeles, says the New Orleans Picayune, is demonstrating almost daily the theory that criminal tendencies are chiefly physical in their nature, and that they are as much a disease as is a tendency to tuberculosis or neurasthenia. Just as one would kill a cancer by destroying its roots, so Judge Wilbur is combating child degeneracy and dependency by considering the human body as a garden in which foul growths often spring up, which can be killed and kept from sprouting by removing those things which nurture them.

Judge Wilbur believes even the most desperate cases of child incorrigibility can be cured by starting with a treatment of fresh air, sunlight, and a copious application of water, which will make for a healthy body, which, in turn, will develop an equally healthy brain tissue. On this brain impressions can be made by a system of teaching, which will eventually bring about a form of auto-suggestion to the patient which cannot fail to make the good, the pure, the beautiful, and the true attractive to him.

For the last year Judge Wilbur has been placing more stress on medical and surgical attention for wards of the juvenile court, than on corrective instruction for the mind. When he has developed a healthy body he finds it easy enough to lead the mind in the right paths.

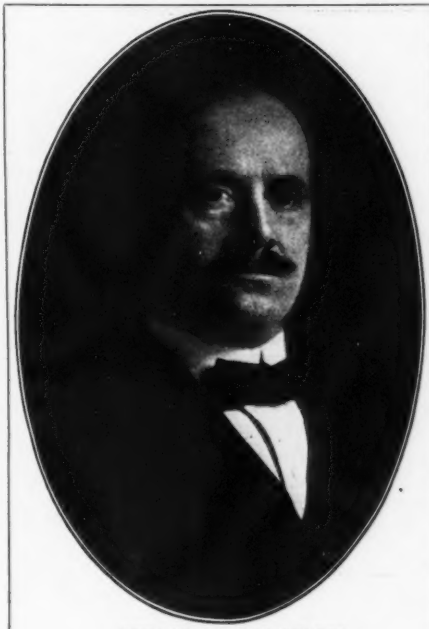
Judge Wilbur's court is attended regularly by prominent local physicians, who offer their services free of charge and make suggestions as to the best methods of treatment. For once a place has been found where the representatives of the medical profession work in harmony. In Judge Wilbur's court they meet on an altruistic plane to strive for the betterment of future generations, by a study of criminal therapeutics.

His office is crowded after court hours by women who wish to talk about their children. He seems to remember all the details pertaining to the history of each child, and calls them familiarly by name. If he suggests an operation, it is because he knows, from experience, that surgery has proved beneficial. The mothers trust to his knowledge, and several surprising examples of child metamorphosis have resulted.

The motto of the Los Angeles juvenile court is carved in the heavy oak panel above the judge's bench: "Gently to hear and kindly to judge." It seems rather a simple motto, but it is made impressive when the judge, who lives up to his motto, is seen carrying on the work of his office.

New Orleans Unique Juvenile Court and Its Efficient Judge.

HONORABLE Andrew H. Wilson, Judge of the juvenile court of New Orleans, was born in that city in the early sixties. He was educated principally in the public schools of that city. He studied law in the law office of Merrick, Race & Foster, a famous law firm of New Orleans. He attended one session of the Law Department of the University of Louisiana to get the benefit of the lectures of Mr. Thomas J. Semmes on Civil Law. Mr. Wilson's practice has been chiefly along the lines of civil law, with occasional cases in the criminal courts.



HON. ANDREW H. WILSON
of New Orleans.

In 1887, Mr. Wilson was appointed by the governor as a member of the board of education of New Orleans. Here he found opportunity for useful and interesting work, for he gave twenty-one years of consecutive service to the public schools of New Orleans as a member and president of the board of education.

The juvenile court was established in New Orleans by constitutional amendment adopted in the fall of 1908. It was because of his well-known ability as a lawyer, and because of his long and voluntary association in the public-school work of New Orleans, and of his knowledge of children, that he was urged to accept the judgeship of the new court, which commenced operations on January 1st, 1909. That the court has been a success, that it at once entered into great public favor, and that it is accepted as a most useful and indispensable public institution, goes without saying in New Orleans. There have been many tasks for the court, however, and for the supreme court of the state, which is the only court that may supervise the *dicta* of the juvenile court; for the court was new, and its pathway had to be found and its lines laid out, and many constructions and interpretations had to be invoked to assist the court on its splendid way. It has been noted, however, that the juvenile and supreme court have coincided almost unanimously in this work, and that the progress of the juvenile court has been commended from so many points of view.

The juvenile court of New Orleans is remarkable among the juvenile courts of the United States in this, that it represents the most advanced form and creation of constitutional legislation in this feature of the judicial department. There has been no reservation at all, the court being given jurisdiction of all children under seventeen years of age, for all crimes and offenses of any nature committed by them; also the disposition of all neglected and delinquent children for whatever cause; and it has jurisdiction

for the trial of all adults for any offense against a child under seventeen years of age, not in the felony class; and it has special jurisdiction against all parents for nonsupport or abandonment of children. It will be noted that this gives the court absolute jurisdiction of the child from every standpoint, and that it is also created as the special friend and guardian of the child. As to adults, the jurisdiction covers nonsupport, assault, abuse of child labor and liquor laws, and violations of the many state laws and city ordinances made for the protection and care of the child. This broad jurisdiction gives the court a great amount of work to do, the docketed cases exceeding 2,500 annually, in which are not counted the many summons cases that are not docketed and are heard privately. The court, under its constitutional prerogatives, must be and is kept open always day and night and Sundays; in fact, since the minute of its official beginning, its doors have never been closed.

At the courthouse are accommodations for children at all hours, and meals are served gratuitously. It is temporarily a home for all children brought in, whether resident or waifs; of course, it is always understood that no children are ever brought to a police station or jail, or transported in a police van.

One line of work of which the court is proud, and in which its good results are not excelled anywhere in America, is in the enforcement of the nonsupport laws, compelling parents to support their offsprings. The legislature in 1902 enacted a most efficient law for this purpose, and it has fallen to the new juvenile court to carry it out. This the court has done seriously and well, having docketed over 400 cases annually, and given particular attention to each case. In this work the district attorney's department has taken a great interest and done most thoroughly all that lay before them. It is said at the court that in 1910 the court will have forced the payment of approximately $40,000 for the support of children. Of the large number of cases in the court it is estimated by the judge that only about 60 per cent go to final judgment or produce alimony, as he makes it his duty to attempt a reconciliation of the spouses in every case. He thinks this a patriotic duty, in holding the family together and thus contributing to the peace and order of the community; besides the enforcement of this law has proven a great antidote to the divorce evil. It has been demonstrated that the mothers of families do not want divorces when they can compel the delinquent spouse to support his children. So that altogether, the court is well pleased with results in this special line of its busy work.

The work of the court has also attracted attention in the enforcement of the liquor laws made for the protection of children, the selling of firearms to children, and the enforcement of child-labor laws. Under this statute, last referred to,—a recent enactment of 1908,—this court held against one Lew Rose for employing a child to perform on the stage. This case was maintained by the supreme court of Louisiana in State v. Rose, in January, 1910, just as a similar case, Com. v. Griffith, was decided by the supreme court of Massachusetts in the same month. These two cases have set the tide in the United States against children performing on the stage. Some important cases involving interpretation of the liquor laws are now pending on appeal in the supreme court.

Judge Wilson transacts a vast volume of business annually for a meagre judicial salary of $4,000 a year. The social value of his work exceeds this sum many times. He is an amiable man, of beautiful and heroic character, and well fitted by natural gifts and training to discharge the duties and fulfil the obligations of the unique position which he occupies. While not a rich man, his sympathies are boundless, and he unostentatiously gives away annually considerable sums of money to aid his juvenile wards.

St. Louis Juveniles Have a Friend in Judge Taylor.

Judge Wilson A. Taylor, of the St. Louis court of criminal correction, occupies a unique position as guardian and foster parent of more children of foreign birth or parentage than perhaps any other person in Missouri or the United States. This distinction, which the young jurist enjoys as a coveted honor, has come to him through his connection with the enforcement in the city of the compulsory education law.

In dealing with delinquent parents of delinquent children who have been brought into court, Judge Taylor has established a precedent from which he never departs in the granting of paroles with stipulation that regular reports shall be made in person by parents during a term of two years in which the court has jurisdiction in each case.

The Missouri law confers authority on the court to impose a fine with imprisonment in cases where parents neglect or refuse to send their children to school during the prescribed terms. In the enforcement of this law the truant officers of the city have brought scores of residents, generally of foreign birth, into the court, angry and defiant because of "interference with their personal liberty." Through a policy of conciliation Judge Taylor has succeeded in convincing these delinquent ones of the justice of the provisions of the law, and by invoking the power of parole has kept them under direction of the court while children have acquired the rudiments of an English education, enabling them to become interpreters when required to report.

During three years that Judge Taylor has presided in the court of criminal correction he has in his way exercised a controlling influence over the lives of scores of boys and girls. He has interested hundreds of the foreign population in American schools and American institutions, who, it is said by a strict enforcement of fines and penalties, would have been driven to malice and defiance of law. Every month there are numbers of the children who bring their parents into court where they act as interpreters of the foreign tongues, while the Judge keeps posted on the progress of his wards.

"I don't like to send a boy to the workhouse," said Judge Taylor, in discussing the procedure of the court of criminal correction. "They learn evil there, and are apt to leave that institution hardened criminals."

In the cases of boys under twenty-one, and who are before the court for the commission of a first offense against the law, it is the practice of Judge Taylor to grant a parole. He frequently receives letters from these boys when beyond the jurisdiction of the court, but who recognize the moral obligation to report according to the terms of their paroles. These letters have in various ways conveyed to the judge an appreciation of favors bestowed, and have given assurance of benefits derived from the admonitions of the court and the added chance in the battle of life.

Judge Lindsey of Denver— the Man and his Boys.

Mostly forehead is Judge Benn Barr Lindsey, says the New York Globe. Very unimpressive at first glance. Just a small man, with his brown eyes peering at you through old-fashioned spectacles, and a forehead that bulges over them, and a slender body carelessly dressed. Just a little higher than the bar rail. You not only wouldn't pick him out in a crowd,—you could hardly find him in a group. But he has made a noise that has echoed across the continent. It has even jarred some of the ideas that came over with William and have been getting blue-molded in the English courts ever since. The London jurists talked them over the other day. The concensus of opinion was: "How very odd."

He is the children's court judge in Denver, whose ideas have revolutionized the world's way of dealing with the juvenile offender. Lindsey doesn't believe it is as important to know what a kid did as why he did it. He doesn't get on a cap and kimono and pull his steel-bowed specks down on his nose and rasp "Well!" at the frightened little rooster until that pint-sized criminal resorts in self-defense to a silence that seems sullen, but is only scared. Lindsey gets his

arm about the kid's shoulders and talks to him like a brother. He tells of the time he, too, ran "wid de gang." They say he even learned to smoke in order that he might be at ease with his callers. He doesn't sentence a boy found guilty. The pair talk it over, and decide between them how long a time at Golden would straighten out the lad's moral kinks. That is where the Colorado reformatory is located. If that is the answer, Lindsey gives the boy the commitment papers and his fare to Golden, and the boy goes all alone. Ordinarily, though, they decide between them that if the boy stays at home he'll do better. So he stays, and now and then comes up to talk things over with the judge.

He is fighting political parties and business men and financiers and parents and school systems and grafters and everyone else who gets in the way of his pet idea, to have justice done, with kindness, to the kids. He developed the juvenile-court system which has been adopted by every up-to-date community. He is the author of a dozen or so laws bearing on this subject, and of as many books. He is, perhaps, the most unpopular man in Denver with the politicians,—but he has the solid support of the kids. Just to show what that support amounts to, he quarreled with the chief of police once because the wine rooms of the city were open to the youngsters. The chief demanded a hearing, at which Lindsey was to produce his witnesses. That hearing was in Lindsey's court room.

"Not a wine room was open last night," said the chief indignantly.

A little bit of a chap got up and shrilled at him: "Yep. They were all closed last night. But how about the other nights, fellers?"

And 200 grave prosecutors in knee breeches rose to answer:

"Open."

Judge Battle of Arkansas Received Loving Cup.

Judge Burrill B. Battle, retiring associate justice of the Arkansas supreme court, was presented with a handsome loving cup as a token of the esteem in which he is held by the members of the Arkansas Bar Association. Judge W. E. Hemingway, one of the leading members of the Little Rock bar, and for four years a member of the supreme court, made the speech of presentation, and the scene was deeply affecting, as the venerable jurist of twenty-five years' continuous service responded his grateful acknowledgment of the tribute from the lawyers of Arkansas.

Judge Tayler of Cleveland Dies.

Judge Robert W. Tayler, of the United States district court, died at Cleveland, Ohio, on November 26th.

He was born in Youngstown, Ohio, November 26, 1852, the son of Robert W. Taylor, who was the first Comptroller of the Treasury. Judge Tayler received honorary degrees from Western Reserve College and from Oberlin College. He was, after his graduation, superintendent of schools in Lisbon, Ohio, and then became editor of The Buckeye State. He was admitted to the bar in 1877, and in a few years was made a county prosecuting attorney. He was a member of the Fifty-fourth to the Fifty-seventh Congresses. He declined nomination for the Fifty-eighth Congress. He became United States district judge for northern Ohio in 1905, and had served since that year. Judge Taylor conducted the famous Brigham H. Roberts trial in the Fifty-sixth Congress. Since his appointment to the bench, in 1905, Judge Taylor had become widely known as an arbitrator in industrial disputes, and in that capacity settled the long-standing street railway war in this city. Prior to the recent gubernatorial election he was asked to enter the field as a candidate against Governor Harmon, but declined.

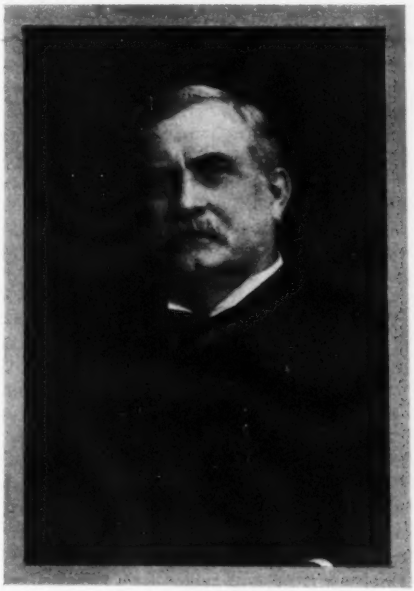
Hon. John F. Rodabaugh of Indiana Passes Away.

Honorable John F. Rodabaugh, a prominent member of the Allen County Indiana Bar, formerly deputy prosecuting attorney, and a representative in the state legislature for two terms, died suddenly at Ft. Wayne, Indiana, December 1, 1910. He was a man of great force of character, a close student of the law, and a forceful advocate; a graduate of Ann Arbor, and a member of the bar for about forty years.

Isaac N. Phillips

Illinois State Reporter.

The supreme court of Illinois recently paid to Honorable Isaac N. Phillips the following tribute on his retirement from the office of reporter of that court:



ISAAC N. PHILLIPS

Springfield, Ill.
October 25, 1910.
Hon. Isaac N. Phillips,
Bloomington Ill.
Dear Sir:—

Your letter tendering your resignation as the reporter of this court is received, and in reply I am directed by the members of the court to express our sincere regrets that you feel compelled to discontinue your official relations with the court.

We take this opportunity to express to you the high appreciation we have of your faithful and efficient work, and of your uniform kindness and courteous treatment of the members of this court. The position which you have filled so acceptably for the past sixteen years is not only one requiring a very high order of legal attainments, but owing to the close and confidential relations which must necessarily exist between the reporter and the members of the court, the position is one requiring the strictest integrity. I know I express the feelings of every member of the court when I say you have measured up to the high requirements of the position in every respect.

The immense amount of work you have done will be appreciated when it is known that the decisions which you have reported during your term of service fill 94 volumes of our Reports. Your predecessor, Mr. Freeman, held the position from 1865 to 1894, and during his twenty-nine years of service only 116 volumes were published; but it is not alone the quantity of work that entitles you to the grateful appreciation of the bench and bar of the state, but we are glad to testify that in our opinion the quality of your work is unexcelled.

We are pained to have you leave this court; but while official associations must be severed, we assure you that the feeling of friendship which each member of the court entertains for you will go on through life.

Very sincerely yours,
Alonzo K. Vickers,
Chief Justice.

It is an exceptional service that Mr. Phillips has rendered to the bench and bar of Illinois. Comparison of the work of those who report judicial decisions can be justly made only by very careful consideration, and by those who give the matter much study. There is a great difference in the quality of the work done by different reporters. Some of it is

admirable, and some of it much less so. It is no exaggeration to say that no court in this country has had a higher grade of work in the reporting of its decisions than that which has been done by Mr. Phillips for the supreme court of Illinois. That court may well say that the quality of his work is unexcelled.

The career of Mr. Phillips is a good example of what an American boy of good brains and sterling character can achieve. He was born on a farm in Tazewell county, Illinois, October 24, 1845. When he was a little past eighteen years of age, he entered the Union Army as a private soldier in company A of the 47th Illinois infantry. After discharge from the Army, he again attended school for a short time in Peoria, Illinois, and then entered the Illinois Wesleyan University, at Bloomington, Illinois, where he continued three years. Though he did not finish his course, because of straitened circumstances, that institution subsequently conferred upon him the degree of Master of Arts. After leaving college, he taught school for a year, and then began to study law in the office of Robert G. Ingersoll at Peoria. Afterwards, he went through the law department of the old Chicago University, and took the degree of Bachelor of Laws June 29, 1871. He was then only twenty-six years old. He immediately began the practice of law at Bloomington, and was for twenty years in partnership with Governor Joseph W. Fifer. From 1885 to 1889 he was master in chancery of McLean county, Illinois, after which he was chairman of the railroad and warehouse commission of Illinois for four years. Since 1894 he has been reporter of the decisions of the supreme court of Illinois until October of the present year, when he resigned. Mr. Phillips has been frequently chosen to make addresses on important occasions. At one of them he spoke on Abraham Lincoln. That address has been published in book form. Of all the tributes that have been paid to Abraham Lincoln, this is one of the most genuine and admirable. In his retirement from office, Mr. Phillips carries many good wishes from the bench and the bar for the fullest enjoyment of his well-earned leisure.

Sir John Bingham's Retirement from the Bench.

Sir John Bingham, in his farewell address to the bar recently delivered in the probate and divorce court, observed: "Of course my judicial acts have been criticized, and often adversely, and perhaps rightly. But no judge should complain of criticism; for a judge who is never worth criticism is probably never worth anything at all. I am reminded of a conversation I once had with Lord Watson. It took place a long time ago when I was more outspoken than I ever venture now to be. I told him I thought he interrupted counsel's arguments too often with his criticisms. 'Eh, mon,' he answered, 'you should never complain of that, for I never interrupt a fool.' And so it is with a judge and the press."

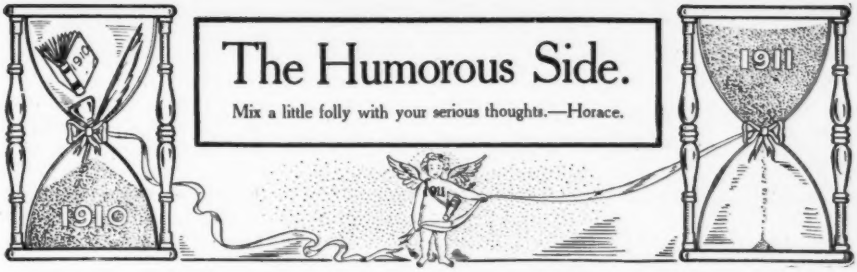
Hon. Simon P. Wolverton of Pennsylvania Dies.

Simon P. Wolverton, ex-state senator and ex-congressman from this district and one of the most prominent attorneys in that state, died suddenly at his home in Sunbury, Pennsylvania. He was found dead in his chair, death being caused by a stroke of paralysis.

In 1878 he was chosen by the Democratic party to fill the unexpired term of A. H. Dill in the state senate, Mr. Dill having resigned to become a candidate for governor. He was subsequently twice re-elected.

In 1890 he was elected to Congress and was re-elected in 1892. His name was several times presented to Democratic conventions as a candidate for governor, and Governor Stone offered him a place on the supreme bench, to fill an unexpired term, but he declined the offer.

He was attorney for the Philadelphia and Reading Coal & Iron Company, the Lehigh Valley Coal Company and Coxe Brothers & Company, and their allied interests. One of his greatest achievements was the part he took in the settlement of the great coal strike by arbitration.



The Humorous Side.

Mix a little folly with your serious thoughts.—Horace.

Where the Danger Lay.—The judge of the juvenile court, leaning forward in his chair, looked searchingly from the discreet and very ragged pickaninny before his desk to the ample and solicitous form of the culprit's mother.

"Why do you send him to the railroad yards to pick up coal?" demanded his Honor. "You know it is against the law to send your child where he will be in jeopardy of his life."

" 'Deed, jedge, I doesn't send 'im; I nebber has sent 'im, 'deed"—

"Doesn't he bring home the coal?" interrupted the judge, impatiently.

"But, jedge, I whips 'im, jedge, ebery time he brings it, I whips de little rapscallion till he cayn't set, 'deed I does."

The careful disciplinarian turned her broad, shiny countenance reprovingly upon her undisturbed offspring, but kept a conciliatory eye for the judge.

"You burn the coal he brings, do you not?" persisted the judge.

"Burns it—burns it—cose I burns it. W'y, jedge, I has got to git it out ob de way."

"Why don't you send him back with it?" His Honor smiled insinuatingly, as he rasped out the question.

"Send 'im back, jedge!" exclaimed the woman, throwing up her hands in a gesture of astonishment. "Send 'im back! W'y, jedge, ain't yo' jest done told me I didn't oughter send my chile to no sech dange'some and jeopardous place?"—Youth's Companion.

An Offended Defendant.—An old darkey was under indictment for some trivial offense and was without counsel. The judge appointed a lawyer to defend him who had never tried a case in court. As he walked forward to consult with his client, the prisoner turned to the judge and said:

"Yo' Honah, am dis de lawyer what am depointed to offend me?"

"Yes."

"Well," continued the old darkey, "take hit away, jedge; I pleads guilty."—Central Law Journal.

A Considerate Court.—A cornfield judge in Oklahoma was hearing a trial for stealing. The defendant testified. Then the prosecuting attorney moved to strike out his testimony as irrelevant, immaterial, and half a dozen other undesirable things.

"What else has the defendant offered in defense?" asked the judge.

"Nothing, your honor," the prosecuting attorney replied.

"Well," ruled the judge, "I won't strike it out. Do you suppose I want to take away the only defense he has?"—Rochester Herald.

He Drew the Line.—One of Judge Lindsey's stories is of a poor Irishman who was arrested on the Fourth of July for punching another man in the face. When the judge asked him if he was guilty, he said, "Sure, that's what I'm here to find out." The judge told him he was charged with striking a man. "But wasn't it the Fourth of July, and couldn't I have a bit of fun?" he asked. "Yes," said the judge, "but your right to having fun ended where this man's nose began."—Picayune.

Even the Children.—Ex-Governor Pennypacker, condemning in his witty way the American divorce evil, told at a Philadelphia luncheon an appropriate story, says the Washington Star.

"Even our children," he said, "are becoming infected. A Kensington school teacher, examining a little girl in grammar, said:

" 'What is the future of "I love?" '

" 'I divorce,' the child answered promptly."—Picayune.

Cupid in Court.—"My girl's parents won't let me see her. Can't I get out an injunction or some sort of a law paper?"

"I should think a writ of attachment would be in order."—Courier-Journal.

Profanation of the Bean.—A Boston policeman was leading a sobbing youngster toward the station house. "What has he been doing?" we asked. "Using a bean-shooter," answered the man behind the star. "Is that a crime?" we queried. "Not exactly," he replied, "but it is considered a sacrilege to put beans to such use in this town."—Chicago News.

Full Particulars.—Lawyer—Now what did you and the defendant talk about?

Witness—Oi t'ink about fifteen minutes.

L.—No, no; I mean what did you talk over?

W.—We talked over the tiliphone, sorr.—Boston Transcript.

Cruel Treatment.—The Judge—Can you describe any specific act of cruelty on the part of your husband?

The Complainant—I should say I can! Whenever he had anything to say to me he'd call me up on the telephone and say it and then disconnect before I had a chance to talk back to him.—Chicago News.

A Little Ananias Club.—"That's so, Judge; I was drunk, all right," the man at the rail admitted gently, even with a note of pathos in his thick voice. "I don't deny it, Judge, but I'll tell you just how it was. I've got a sick wife at home, terrible sick; nobody to do for her but me. I haven't had my clothes off nor laid down for four nights. When I went out last night I—well, I just had to have a bracer, Judge, and I got a little too much under my belt; that's so. The woman's all alone up at the house, Judge. I'll have to get back somehow."

"That's queer," interrupted the Magistrate, with quiet conviction. "We received a letter from your wife and she asks me to keep you locked up as long as possible. Says you're in the way at home—a nuisance. She is glad to be rid of you."

Silently, without apparent surprise, the prisoner shuffled toward the door on his way to jail. Then he looked back.

"Say, Judge," he called out, "there are two awful liars in this room, and I'm one of 'em. I ain't got no wife!"—Exchange.

True Gift for Fiction.—In a New Brunswick village a town character who preferred emphasis to the verities was a witness in a petty trial involving an auger. He positively identified it as the property of the parties to the suit.

"But," asked the attorney for the other side, "do you swear that you know this auger?"

"Yes, sir."

"How long have you known it?" he continued.

"I have known that auger," said the witness impressively, "ever since it was a gimlet."—Everybody's.

Would Deserve More.—"This story comes from a lawyer," says the New York Telegraph: "A worthy and provident man went to his legal adviser to make his will. He gave many instructions, and it seemed that everything was arranged. The lawyer began to read over his notes, and put a point to his client.

" 'Oh—you have made provision for your wife in the event of her surviving you. Does that remain unaltered if she should marry again?'

" 'No, no,' said the client eagerly. "What am I leaving her? One thousand dollars a year. If she marries again make it $2,000."

"The lawyer thought there must be a misunderstanding and pointed out that most men put it the other way about.

" 'I know,' said the client, 'but the man who takes her will deserve it.' "